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ONTARIO HUMAN RIGHTS COMMISSION

ANNUAL REPORT 1990-91





Ontario
Human Rights
Commission

Commission
ontarienne des
droits de la personne

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June 28, 1991

The Honourable Elaine Ziembra
Minister of Citizenship with responsibility
for Human Rights, Disability Issues, Seniors
Issues and Race Relations
77 Bloor Street West
5th Floor
Toronto, Ontario
M7A 2R9

Dear Mrs. Ziembra:

Pursuant to Section 30(1) of the **Ontario Human Rights Code, 1981**, it is my pleasure to provide to you the Annual Report of the Ontario Human Rights Commission for the fiscal year 1990/91 for submission to the Legislative Assembly of Ontario.

This report reflects the activities of the Commission to March 31, 1991.

Yours sincerely,

Catherine Fazee

Catherine Fazee
Chief Commissioner

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Courage, partnership and innovation must prevail for us to reach our destination on the plateau of equality for all.

Any person faced with the challenge of climbing up out of a canyon, begins by looking for an outcropping, something solid to grab on to. Ideally, what the climber wants is a series of ledges leading up out of the canyon, ledges that will bear the full force of her weight as she attempts to pull herself up to the face of the cliff.

For people who are disadvantaged by discrimination in Ontario, one of those ledges jutting from the cliffside is the **Human Rights Code**. It is the law that protects us from discrimination as workers and job seekers, as tenants and property owners, as consumers, customers and clients, and as members with full standing and dignity in our communities.

Aside from a series of solid ledges to stand on, our climber could make good use of a strong rope which is securely fastened to the top of the cliff.

When one person brings a successful human rights complaint, that victory secures a rope for

those who come later. And the more climbers that have gone before, the more ropes and options for different ways of climbing out of the canyon. Moreover, there are subsequent climbers don't have to worry about finding every toehold and outcropping, because earlier victories have established precedents, or short cuts to the top.

You will read in this report, the stories of some of the many climbers who tackled the cliff face during the past year. They are stories of people with courage and determination. They are stories of people who found a solid ledge in the provisions of the Ontario **Human Rights Code** that prohibit harassment and discrimination. They are stories of people gradually mapping individual routes toward the cliff top, some of them direct, some circuitous, some yet incomplete. They are stories of people who have successfully secured ropes to the top of the cliff, ropes that remain intact and which hang within the reach of subsequent climbers.

In the years ahead, many more Ontarians will seek to climb the cliff and to install new ropes that will enable others to follow. This progress must continue, for we can no longer afford as a society to exclude the contribution, talent and perspectives of our diverse population. The Human Rights Commission of Ontario will work with all of our collective skill and vision to coach, support and encourage the climbers, to chart preferred and alternate routes, to develop better tools and techniques, and to secure new ledges of policy and program as solid footings along the way.

Courage, partnership and innovation must prevail for us to reach our destination on the plateau of equality for all.

Catherine Frazee

The history of the Ontario Human Rights Commission in many ways parallels the development of human rights consciousness in the province.

In 1962 Ontario became the first Canadian jurisdiction to enact a comprehensive human rights code. The **Code** combined all the anti-discrimination and fair practices Acts that were passed during the 1940s and '50s. The Ontario Human Rights Commission was also created in 1962 to administer the **Code**, to investigate complaints of discrimination and to educate the public on human rights issues. In 1979 a Race Relations Division was added to the Commission to deal with growing discrimination against racial minority groups. The Division (now called the Anti-Racism Secretariat) was transferred to the Ministry of Citizenship in 1988.

The **Code** was created to address widespread discrimination, particularly in employment. Between 1962 and 1972 several additional pieces of legislation were incorporated in the **Code**. These included the **Fair Housing Practices Act** (first in North America), which banned the use of discriminatory wording in real estate listings; the **Age Discrimination Act** prohibiting age discrimination and the **Women's Equal Employment Act**. Prohibited grounds for discrimination were added over the years, to a total of 15 now present in the **Code**.

The history of the Ontario Human Rights Commission in many ways parallels the development of human rights consciousness in the province. For example, it was common up to the 1940s to see public signs reading "Gentiles Only" or "No Jews or Dogs Allowed". Blacks and other racial and ethnic groups were repeatedly refused service in taverns and hotels and women were paid less than men for doing the same work.

Between the '40s and the '60s, however, events such as the Holocaust, the dramatic increase in immigrants from countries other

than Britain and the growing number of women in the workforce, helped to create a radical shift in public attitudes toward discrimination. Community activists, trade union leaders and politicians began to demand stronger legislation to protect groups that were being discriminated against.

Between 1975 and 1977 when Life Together: A Report on Human Rights In Ontario was published, the Human Rights Commission conducted a comprehensive review of the changing human rights issues in the province. This led to the proclamation of a new **Code** in 1981.



The 1981 **Code** was strengthened to deal not only with *acts* of discrimination, but also with the *result* of discrimination caused by practices and policies that on the surface seem neutral, but which, when applied, discriminate against members of the protected groups. One example of such discrimination was the effect of policies requiring men in certain employment situations to have their faces shaved clean. This discriminated against, for example, baptized members of the Sikh religion who are prohibited from shaving their beards.

The new **Code** permitted the creation of 'special programs' to "relieve ...economic disadvantage... or to assist (groups protected by the **Code**) to achieve equal opportunity". This clause protected employment equity programs from charges of reverse discrimination. The tone of the **Code** was also changed from that of "No person shall discriminate...", to that of emphasizing the right of every individual to "equal treatment...without discrimination".

The most recent amendment to the **Code** was in 1986. Landlords, employers and service providers are now required to accommodate the needs of the protected groups, so long as doing so does not cause "undue hardship" to their organization. A new section was also written into the **Code** requiring accommodation of the special needs of persons with disabilities.

In 1986 also, discrimination on the basis of sexual orientation was prohibited.

HIGHLIGHTS IN OUR HISTORY

1962 Code enacted. Commission created.

1972 Code amended: affirmative action programs protected; housing provisions expanded; Commission given authority to initiate discrimination complaints.

1975 Commissioners appointed from the public, instead of from government employees.

Review of **Human Rights Code** initiated by Commission.

1976 The Community, Race and Ethnic Relations Unit established to deal with community tensions and conflict.

1977 Report Life Together published. Became basis for the 1981 amendments to the **Code**.

1979 A Race Relations Commissioner appointed. A Race Relations Division created.

1981 Major revision of the **Code**: prohibited grounds for discrimination broadened; for the first time in Canada sexual harassment and unwanted sexual advances prohibited; the **Code** given primacy over all other legislation; discrimination on the basis of handicap prohibited.

Commission launches a major public education campaign under the theme of "Together We Are One".

1985 Reconsideration Unit created to allow complainants to request that the Commission reconsider a decision not to send their cases to an independent Board of Inquiry.

1986 Discrimination on the basis of sexual orientation prohibited.

Amendment requiring accommodation "short of undue hardship" for all groups covered by the **Code**.

1989 "Guidelines for Assessing Accommodation Requirements for Persons with Disabilities" released by the Commission, outlining the Commission's interpretation of the 1986 amendments to the **Code**.

Major reorganization of the Commission. Six administrative Units created to streamline and increase effectiveness of operations.

Series of policies and guidelines initiated to explain the Commission's interpretation of the **Code**.

1990 Commission outreach program held in Sudbury.

Kenora Office opened.

Commission Outreach Program held in Windsor.

Case Management Plan launched to increase efficiency in case processing.

Commissioners are appointed by the Lieutenant Governor in Council upon recommendation by government. Members of the public interested in serving as Commissioners may apply for the positions through the Public Appointment Secretariat, which advertises vacancies.

Commissioners serve on a part-time basis for three years. The Chief Commissioner serves full-time for three years.

Commissioners represent a wide range of social and community interests. From their experience and involvement with community issues, they bring an understanding of human rights concerns at the local and provincial levels. Commissioners also meet and exchange information with a wide cross section of people, including representatives from business, labour and community organizations.

The roles and functions of Commissioners are described in the Ontario **Human Rights Code**. They include:

- promoting the **Code's** policy on the dignity, worth and equal rights of all persons in Ontario;
- promoting an understanding of the **Code**;
- reviewing statutes, regulations or programs found to be inconsistent with the spirit of the **Code**;
- initiating investigations into problems caused by discrimination and developing or co-ordinating remedies.

At regular meetings the Commission makes formal decisions regarding complaints filed under the **Human Rights Code**. They review proposed settlements to complaints and, where the parties cannot agree to settle, determine whether these cases should be sent to an independent Board of Inquiry or whether they should be dismissed. The Board of Inquiry is appointed by the Minister of Citizenship.

Catherine Fazee, Chief Commissioner



Catherine Fazee was appointed Chief Commissioner of the Ontario Human Rights Commission in September 1989 after serving four years as Commissioner. Prior to her appointment she served as Coordination Officer for Amnesty International, where she planned human rights campaign activities, consulted on political and communications strategies and developed the expertise of volunteers in international human rights advocacy.

Ms. Fazee received her post-secondary education at Carleton University in Ottawa and at Dalhousie Law School in Nova Scotia.

She has been actively involved in community organizations such as the Canadian Disability Rights Council; The Canadian Paraplegic Association and the Persons United for Self Help International. She also sits on the advisory board of the Ontario Law Reform Commission.

R. Lou Ronson, Vice-Chair

Mr. Ronson is a former Commissioner of the Anti-Defamation League of the B'nai Brith. He is currently a member of the League's National Advisory Council and has served as President of B'nai Brith Canada. Mr. Ronson is a lifetime Director and Honorary Vice-president of the Toronto Jewish Community Centre; a member of the board of Mt. Sinai Hospital in Toronto and a member of the management board of the Leah Posluns Theatre. Along with his wife he was honored in 1984 by the University of Haifa, with the establishment of the Hilde and Lou Ronson Foundation for Overseas Students, which provides scholarships to overseas students. He is also the founder of the R. Lou Ronson Institute on Anti-Semitism, administered by the League for Human Rights of B'nai Brith Canada.



Dr. George Bancroft



Dr. Bancroft is Professor Emeritus in the Department of Policy and Foundations of the Faculty of Education at the University of Toronto. He has taught in Guyana, Quebec, Ontario, and the U.S.; and has written extensively on social and educational issues. From 1965-68, Dr. Bancroft was a member of the Provincial Commission on Aims and Objectives of Education for the Schools of Ontario. He also served as Executive Director of the Multiculturalism and Citizenship Division of the former Ministry of Culture and Recreation. His three-year appointment to the Commission ended in February 1991.

John T. Cochrane

Mr. Cochrane is an Executive Board member of Local 6500, United Steelworkers of America. He is the first full-time Compensation Officer for his union, dealing specifically with industrial diseases in northern Ontario. Mr. Cochrane is also Director of FED-NOR, a federal government initiative to stimulate economic development throughout northern Ontario. His three-year appointment to the Commission expired in 1991.



PROFILES OF COMMISSIONERS

PROFILES OF COMMISSIONERS

Reva Devins



Ms. Devins has been a Commissioner since February 1987. She completed her undergraduate degree at York University and holds law degrees from Osgoode Hall and Harvard University. She served as law clerk to Mr. Justice Estey, former Justice of the Supreme Court of Canada. Ms. Devins is a member of the Bar of Ontario and has conducted legal research at the Canadian Human Rights Commission, as well as assisting council in a major provincial inquiry.

Elizabeth Kishkon

A resident of Windsor, Elizabeth Kishkon was appointed to the Commission in March 1986. She began her professional career as political commentator and interview host for the CBC in 1971, while serving as board member of various social service agencies. She is an active participant in community projects and municipal affairs, and served as Windsor's first woman mayor. She currently works as a free-lance broadcaster.



Louis Lenkinski



A member of the Upholsterers' International Union for many years, Mr. Lenkinski served as its business representative from 1958 to 1969. Since then, he has held the positions of Project Director and Executive Secretary to the Labour Council of Metropolitan Toronto. In 1975, he became Executive Assistant to the Ontario Federation of Labour, and in 1984 was appointed a part-time member of the Ontario Labour Relations Board. Mr. Lenkinski joined the Commission in July 1987. He is also currently involved at an executive level in a number of community organizations.

Shirley O'Connor

Ms. O'Connor is a resident of Sioux Lookout and a former President of the Ontario Native Women's Association. She served as Executive Director of the Nishnawbe Gamik Friendship Centre and was a member of the Sioux Lookout Chamber of Commerce and the Town Council Economic Development Committee from 1984 to 1986. She also served on the Governing Board of the Sioux Lookout General Hospital and on the Board of Directors of the Ontario Metis and Non-Status Indian Association. Ms. O'Connor's three-year appointment to the Commission ended in February 1991.





Mr. Philpott was appointed to the Commission in March 1989, bringing with him extensive private sector experience. He studied at the University of Toronto School of Architecture, and has worked in contracting, finance and investment, commercial real estate development and as a consultant. At present, Mr. Philpott operates his own company and holds directorships in other organizations, including the Canadian Opera Company. He has written a popular book entitled "Dangerous Waters".

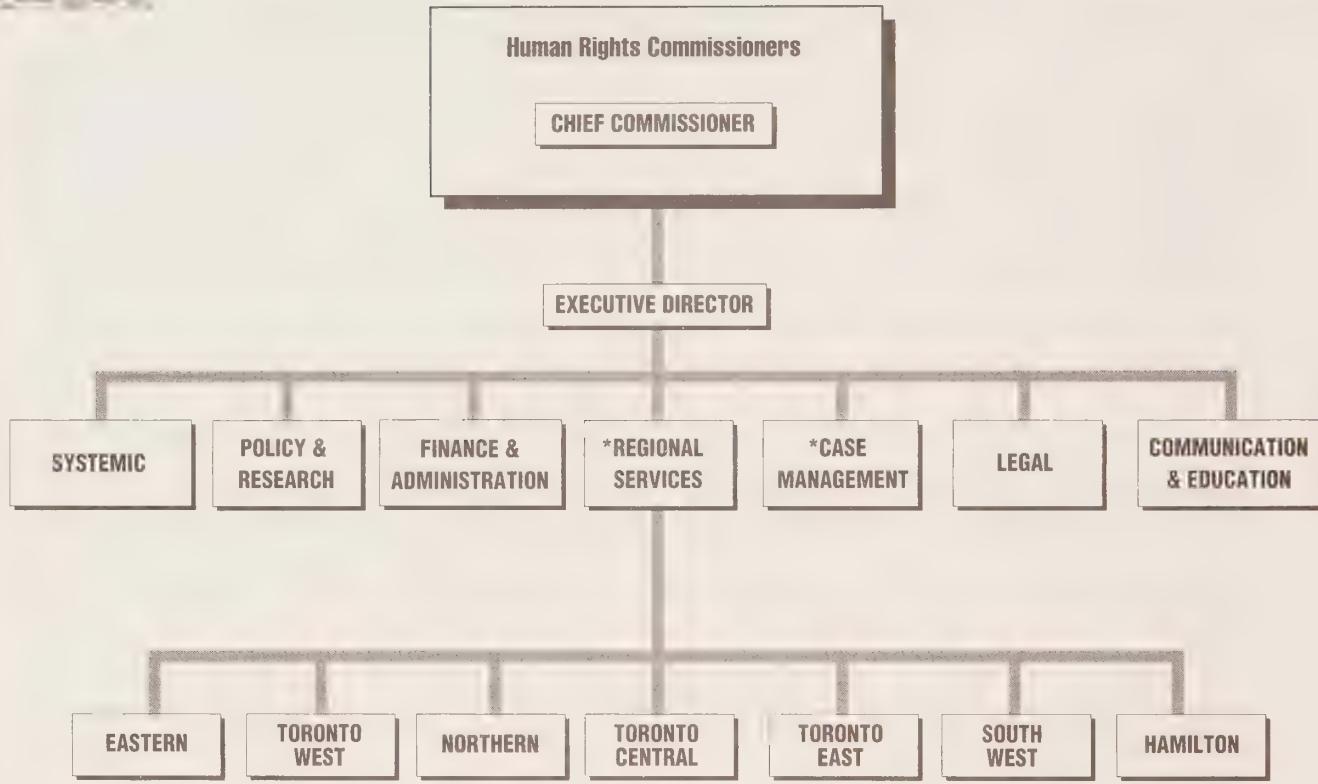
**Jodey Porter**

Ms. Porter served for eight years with the Canadian Diabetes Association, as Executive Director of the Ontario Council on Diabetes and as the first Executive Director for the Ontario Division of CDA. She is currently coordinator of the Ministry of Health's diabetes services. Ms. Porter believes in the need for consumer-led advocacy and has volunteered her time to more than fifty organizations that advocate the recognition and strengthening of individual rights. She was appointed to the Commission in April 1989 and served during 1990-1991 as the Chairperson of the Commission's Outreach Committee. A native of London, Ms. Porter serves locally as a member of the Grand Theatre Board and Strategic Planning Committee. She is also a member of the Executive Committee and Board of Directors for the Canadian Centre for Philanthropy, and chairs that organization's Training and Development Committee.

**Pam K. Gill**

Ms. Gill was appointed to the Commission in May 1989. She draws upon extensive experience in social work with the federal government's New Horizon grant program and as Executive Director of the Richmond Multicultural Concerns Society. She also served as Manager of the Counselling Services Team at the South Asian Social Organization. Ms. Gill has a social work degree and a science degree from the University of British Columbia, and is fluent in four languages.

ORGANIZATIONAL CHART



* In March 1991, the Regional Services Unit was created to replace the Compliance Unit. A Case Management function was also created to exclusively handle case processing and monitoring.

INTRODUCTION TO CASES

Under the **Code**, the Commission may refer cases in which settlement cannot be reached to an independent Board of Inquiry appointed by the Minister of Citizenship. At these hearings the Commission is responsible for proving the allegation in the complaint.

During 1990/1991 36 decisions were handed down by Boards of Inquiry. There were also 10 Board of Inquiry decisions under appeal to the Ontario Court of Justice.

The cases in this section have been arranged according to the issues they addressed. They represent significant settlements, Board of Inquiry decisions and Court decisions in the area of human rights last year.

LIST OF CASES

ACCOMMODATING SPECIAL NEEDS

- Gohm v. Domtar Inc. (No.4)
- Gilbert Janssen v. The Ontario Milk Marketing Board
- Mira Heinke v. Kenneth Brownell and Emrick Plastics
- Youth Bowling Council of Ontario et al v. Tammy McLeod et al (Divisional Court)

MANDATORY RETIREMENT

- McKinney et al v. University of Guelph et al (Supreme Court of Canada)
- Large v. City of Stratford et al

DISCRIMINATION ON THE BASIS OF RACE

- Persaud and Bhardwaj v. Consumers Distributing et al
- Phil Grant v. Bob Willcock
- Bhaduria v. Toronto (City) Board of Education
- The Board of Education for the City of Toronto v. Qureshi (Divisional Court)

EQUITY PROGRAMS

- Roberts v. Ontario (Ministry of Health) (Divisional Court)
- Canada Trust Co. v. Ontario Human Rights Commission (Court of Appeal)

SEX DISCRIMINATION/SEXUAL HARASSMENT

- Youmans v. Lily Cups Inc. et al (Settlement)
- Carol Shaw v. Levac Supply Ltd., and Roger Levac and Herb Robertson

DEVELOPMENT AND PSYCHIATRIC DISABILITIES

- Karen Aquilina v. Stephanie Pokoj
- June Kafato (on the behalf of the Summit Halfway House) v. Halton Condominium Corporation No. 4

DISCRIMINATION ON THE BASIS OF CREED

- Pandori and the Human Rights Commission v. Peel Board of Education (Board of Inquiry and Divisional Court)

SPECIAL INTEREST GROUPS

- Mr. Paul Gregory v. Donauschwaben Park Waldheim Inc. et al

DISCRIMINATION IN HOUSING

- Dudnik et al v. York Condominium Corp. No. 216 (No. 2) et al (Board of Inquiry)



The duty to accommodate was enshrined in the **Code** when it was amended in 1986. The amendment stated that employers, landlords and service providers must make provision for the needs of employees, tenants and consumers, identified by the 15 prohibited grounds of discrimination in the **Code**.

The responsibility of employers, landlords and service providers to accommodate special needs was highlighted in a number of significant Board of Inquiry decisions last year. In the case of unionized workplaces, it was found that the union could also be held responsible for providing accommodation.

Accommodation means providing the resources or making the necessary adjustments so that members of groups protected by the **Code** can have equal access to employment, housing and services. It means removing barriers or restrictions which some people face because of, for example, a disability or membership in a religious group that worships on a particular day.

The duty to accommodate was enshrined in the **Code** when it was amended in 1986. The amendment stated that employers, landlords and service providers must make provision for the needs of employees, tenants and consumers, identified by the 15 prohibited grounds of discrimination in the **Code**.

The 1986 amendment reflected what the Supreme Court of Canada had already ruled in cases such as **O'Malley v. Simpson Sears (1986)**. In that decision Mr. Justice McIntyre ruled that a company's policies, even though neutral in and of themselves, could be considered discriminatory if they imposed unfair restrictions on a group protected by the **Code**. (The **O'Malley** case involved an employee who was a member of the Seventh Day Adventist Church, which prohibits its followers from working on Saturday. The court ruled that Simpson-Sears was responsible for making adjustments in the employee's work schedule to the extent that it was reasonable. The **Code's** 1986 amendment required employers to provide accommodation "short of

undue hardship" – a new and more stringent requirement.)

The case of **Heincke v Brownell and Emricks Plastics** addressed the subject of providing alternate job responsibilities to a pregnant employee.

Upon discovering Ms. Heincke was pregnant, Ms. Heincke's doctor recommended that she ask to be assigned to work in an area of the plant away from the painting booth where she worked as a spray painter. The company at first transferred Ms. Heincke to the packing area, but after three weeks asked her to provide more proof as to why she needed to be relocated.

Ms. Heincke obtained a letter, this time from her obstetrician, advising that she be removed from the area with paint fumes. Instead of accommodating Ms. Heincke, the company again claimed that the note was too vague and placed her on an unpaid leave of absence.

A series of events took place following Ms. Heincke's complaint to the Commission. Ministry of Labour technicians twice tested the plant's air quality to determine

The Board also found that expert testimony confirmed that there was at least a doubt as to whether a pregnant woman should be exposed to paint fumes. Based on this doubt, the Board said, the company had a duty to accommodate Ms. Heincke.

whether there was justifiable cause for concern for the woman's health. The company used the result of the first test to support its claim that a transfer was not merited.

The Board of Inquiry ruled that the second test, which took a wider set of factors into consideration, was more accurate. The Board also found that expert testimony confirmed that there was at least a doubt as to whether a pregnant woman should be exposed to paint fumes. Based on this doubt, the Board said, the company had a duty to accommodate Ms. Heincke.

Finally, the Board found that the company could have accommodated Ms. Heincke, in light of the fact that it had been hiring new employees to perform packing duties. The Board ruled in Ms. Heincke's favor and awarded her more than \$21,000 for lost wages and damages.

Religion is another ground on which increasingly, requests are being made for accommodation. In the case of **Gohm v. Domtar Inc (No.4)**, the complainant, Irene Gohm, did not reveal during her pre-employment interview that her religion prevented her from working Saturdays, even though it was explained to her that she would have had to work some Saturdays. She was afraid she might have lost her chance of obtaining the job.

After she was hired, Ms. Gohm requested that the company allow her to perform the tasks she would normally do on a Saturday, on a Sunday instead. After some negotiation the company and the union

agreed to allow Ms. Gohm to work on Sundays. The union, however, cited a clause in the collective agreement requiring that work on Sunday be regarded and paid as overtime. The company felt this would be unfair to the employees who worked on Saturday at straight pay.

The company eventually fired Ms. Gohm. It later agreed to re-hire her on condition that she make herself available for work on Saturdays, although where possible, it would make an effort to find replacements for her Saturday shift. Ms. Gohm refused these conditions and was not hired. She filed a human rights complaint citing the company and the union as respondents.

The Board of Inquiry found the company liable because it did not offer Ms. Gohm work on Sunday at straight-time, nor did it offer to negotiate the matter with the union. Such actions would have indicated that it had at least made an effort to accommodate the employee. Instead it offered to accommodate Ms. Gohm only if the union agreed.

The Board also ruled that given the financial resources of Domtar, it could not be considered undue hardship for the company to afford the roughly \$160 a year it would cost to pay Ms. Gohm for overtime on Sunday. The Board also



The Court also found that permitting Tammy to use a ramp did not cause undue hardship, because her use of a ramp did not give her a competitive advantage in the game.

ruled that the union did not make enough effort to arrive at a compromise solution in light of the collective agreement.

The Board ordered the company and the union to jointly reimburse Ms. Gohm's salary loss with interest, for the two years following her termination during which, despite extensive efforts, she was unable to obtain another job. The amount totalled more than \$74,000.

A third critical ground on which accommodation issues were addressed last year was that of physical disability. The vast majority of accommodation cases before the Commission centre on issues relating to disability. In the case of **Tammy McLeod v. the Youth Bowling Council of Ontario et al** the complainant, Tammy McLeod, was disqualified from competing in a divisional tournament even though she had won the local and national championships. The Council said she was ineligible to play, because her disability required her to use a ramp to deliver the ball instead of delivering the ball free hand.

The Divisional Court upheld the Board of Inquiry decision that Tammy was denied equal treatment.

The Court concluded that the Council's rule that players must deliver the ball manually had a negative impact on some players with disabilities. Such players, the Court said, should be accommodated, short of undue hardship to the organization. The Court also found that permitting Tammy to use a ramp did not cause undue hardship, because her use of a ramp did not give her a competitive advantage in the game. Tammy was allowed to use the ramp in question in her bowling competitions.

The issue of accommodation in the workplace is one that will continue in importance as we enter the 1990s.

Companies' obligation to accommodate the special needs of employees will have major implications for pregnant women; persons with disabilities; women with small children and indeed men who are primary caregivers to their children. Statistical and social trends indicate that many women leave the workforce, sometimes at the peak of their careers, because of the heavy burden of juggling full-time jobs with the responsibility of caring for small children and sometimes older parents.

Increasingly women as well as men are demanding alternatives to terminating or putting their careers on hold. In this context, last year's Board of Inquiry decisions could have major implications for the provision of workplace accommodation.

During the past year the subject of mandatory retirement came to a head after challenges to the Human Rights Codes of Ontario and British Columbia led to a major Supreme Court of Canada decision.

Canadian mandatory retirement programs came into being with the creation of private and public security plans. Public pension plans began in 1927 with the introduction of the Old Age Pension Act, which adopted 70 as the age at which benefits would be paid. This was lowered to 65 in the 1960's. Other programs such as Old Age Security and the Guaranteed Quebec Pension Plans also provided that retirement benefits be paid beginning at age 65.

Some 50 percent of Canadian workers occupy jobs that are subject to mandatory retirement. About two-thirds of Collective Agreements in Canada contain mandatory retirement provisions at age 65, a clause which was in most cases negotiated by workers. (The Ontario **Human Rights Code** provides protection in employment to persons between 18 and 65).

Mandatory retirement has become part of the fabric Canada's labour market. There has been in recent years, however, a significant change in society's view of what used to be seen as a reward for a lifetime of service. With medical and technological advancements, many older workers enjoy good health and wish to continue working past 65.

A mandatory retirement age is seen by some as a compromise between protecting individuals from discrimination in employment and giving both employer and employee freedom to agree on a termination date of employment. This freedom permits employers to plan their financial obligations for pension and benefit plans; to facilitate the recruitment and training of new staff; to develop seniority systems and generally to work with the knowledge that the work relationship will end at a definite date. Employees can also plan for their retirement well in advance.

In Ontario, eight university professors and a librarian filed a complaint with the Ontario Human Rights Commission alleging that the mandatory retirement policy of the universities for which they worked discriminated against them on the basis of their age. (See **David McKinney et al v. Board of Governors of the University of Guelph et al.**) The Commission declined to deal with the complaint on the ground that the **Code** does not provide protection from discrimination in employment past 65.

The parties began a Court action alleging that the universities' mandatory retirement policies violated the equality guarantees of the Charter of Rights. They also argued that the **Code's** limit of protection based on age violated the Charter. (Section 15 of the Charter states that "every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national origin...age or mental disability".)

The case reached the Supreme Court of Canada and last year the Court made its finding.

The majority of the Court held that the actions of the universities do not fall within the scope of the Charter because the universities are not part of government. Their mandatory retirement policies therefore do not constitute government policy.

The Court went on to consider whether such retirement policies would have violated the Charter had the universities been subject to the Charter. The Court held that mandatory retirement policies would be discriminatory and contrary to the equality rights provisions of section 15 of the Charter.

The Court ruled, however, that even though the policies were discriminatory, they were protected by Section 1 of the Charter, which states that rights and freedoms are subject to reasonable limits prescribed by law, once these limits can be demonstrably justified.

Justification in the case of university faculty would be related to excellence in education; maintenance of the tenure system; the need to renew staff and the need to maintain academic freedom with a minimum of supervision and performance testing. As well, retirement at age 65 would have profound implications for pension plans and opportunities for younger staff. One Justice went so far as to state that "a ruling that mandatory retirement is constitutionally invalid would impose on the whole country a regime not forged through the democratic process but by the heavy hand of the law".

The Court then went on to consider whether the **Code** itself was discriminatory. The majority of the Court concluded that failure to extend protection to employees over 65 was discriminatory but justified under Section 1 of the Charter.

One objective of mandatory retirement, as stated by the Court, was to open the labour market up for younger unemployed workers. The problem of unemployment would be aggravated if employers were unable to retire their long term workers.

While the **Code** permits employers to impose a mandatory retirement age of 65, any agreement for retirement prior to 65 is still subject to the **Code**. In the case of **Albert Large v. the City of Stratford et al.**, a Board of Inquiry rejected a bid by the Stratford Board of Police Commissioners to retire Mr. Large at 60, although he was willing to work until 65. There had been an agreement between the Police Commission and the Police Association that members should retire at age 60.

The Board of Inquiry rejected the arguments put forward by the Police Commission around:

- a) psychological, sensory and mental factors. The evidence of decline in mental processing of information did not substantiate the argument that mandatory retirement at age 65 was reasonably necessary for police officers;
- b) cardio vascular concerns. There was no substantial evidence put forward to compel retirement at age 60 on the grounds of high risk of cardio vascular disease;
- c) muscle condition and aerobic capacity. The evidence on age-related muscle condition was limited and it was not sufficiently linked to support the mandatory retirement rule of age 60.

Racial discrimination in Ontario has long been recognized by the provincial Legislature. Some of the earliest anti-discrimination legislation was aimed at prohibiting discrimination on the basis of race.

Racial discrimination in Ontario was highlighted last year in the dramatic case of **Phil Grant v. Bob Willock**. The Board of Inquiry found that Mr. Willock refused to sell Mr. Grant his cottage solely because Mr. Grant is black.

Counteracting Mr. Willock's claim that he had the right to sell his cottage to whomever he pleased, Board chair Errol Mendes stated: "Liberty is indeed the cornerstone of our society. But if we do not wish to undermine it, we should put it in its proper perspective in any conflict, before we ..use it to protect a host of evils".

Racial discrimination in Ontario has long been recognized by the provincial Legislature. Some of the earliest anti-discrimination legislation was aimed at prohibiting discrimination on the basis of race.

The first Ontario **Human Rights Code** passed in 1962 prohibited discrimination on only a limited number of grounds, mainly those related to race i.e. race, colour, nationality, ancestry or place of origin. These grounds continue to form a significant portion of the complaints received by the Commission.

One of the first areas where racial discrimination was identified was in the sale and leasing of property.

The **Phil Grant v Bob Willock** case indicates that there are still expressions of blatant racism in our society today. According to testimony in the hearing, Mr. Willock appeared interested in selling the cottage to Mr. Grant's wife, who is white. When she brought her husband to view the cottage, how-

ever, Mr. Willock appeared reluctant to sell it to them, claiming that he had a relative who was interested in buying the cottage.

Some time after, Mr. Grant's mother-in-law, posing as an interested buyer, enquired about the cottage and was told that it was still for sale. While showing Mrs. House the cottage, Mr. Willock was said to have made derogatory racial remarks about Mr. Grant, whom he did not know was related to Mrs. House. Mr. Willock later sold the cottage to another buyer for less than the amount Mr. Grant had offered

The Board ordered Mr. Willock to pay Mr. Grant \$3,000 in damages for "the injury suffered to his dignity and self respect".

The vast number of race complaints, however, arise in the area of employment. The existence of racial discrimination in employment is of particular concern to the Commission.

In the case of **Bhardwaj v. Consumers Distributing Ltd. and Gary Dassy**, Mr. Dassy, who was involved in a work-related dispute with Mr. Devinder Bhardwaj, physically attacked him and called him derogatory racial names. The Board of Inquiry found that the *motive* for the attacks and the verbal abuse was work-related and because of race. The Board then defined racial harassment in the workplace. According to chairman Peter Cumming:

"Racial harassment is present when one person insults another person on the basis of his race, color, ancestry and place of origin, irrespective of the underlying events that trigger the outburst. Such harassment is contrary to ...the **Code** and Mr. Dassy is in breach of that provision.

"When derogatory racial references are used between employees in the context of a heated argument... as an expression of anger and frustration, such racial references constitute racial harassment".

Mr. Dassy was ordered to pay Mr. Bhardwaj \$1,500

The **Code** holds employers responsible for making sure that their work environment is free of racial harassment and name calling. Prompt and appropriate action by management will not only create a better environment for all, it can mean the difference in a Board of Inquiry ruling.

For example, in **Persaud v. Consumers Distributing Ltd. and Cliff St. Pierre**, the Board of Inquiry ruled in favor of the employer, because management

took steps to address charges of discrimination in the workplace by making it clear that racial name-calling would be a matter for discipline. Racial graffiti on bathroom walls were also regularly cleaned.

The Board found that because Consumers took the action it did, including in one case mediating between the two feuding employees, it showed that it did not "authorize, condone, adopt or ratify ...actions of harassment". Consumers was therefore not found liable in the two cases.

Another area in which racial minorities continue to experience discrimination is in employment interviews. This phenomenon is supported by studies such as Who Gets the Work, sponsored by Toronto's Urban Alliance on Race Relations, which showed that even with identical resumes white actors (who posed as job seekers) were offered jobs three times as often as black actors.

In **Bhaduria v. Toronto (City) Bd. of Education** although the Board of Inquiry disagreed that Mr. Bhaduria was personally disadvantaged by the Board's interview process, Board Chair Paula Knopf acknowledged that "the evidence is convincing that untrained interview teams conducting unstructured interviews may well be putting South Asians and other visible minorities in a disadvantageous position because their personal qualities will not be recognized".

These decisions illustrate the broad spectrum of racial discrimination which exists today. Blatantly racist attitudes are evidenced in actions such as refusing to sell property to a person because of colour and using racially derogatory insults.

At the other end of the spectrum it is the question whether apparently neutral structures such as employment interviews operate to disadvantage members of different cultural groups.

"We now know that to treat everyone the same may be to offend the notion of equality."

Rosalie Silberman Abella

Section 13 of the **Code** allows for the creation of 'special programs' such as affirmative action or equity programs. These programs are designed to correct disadvantage to certain groups caused by, among other reasons, a history of discrimination in society.

Historically, the concept of equality has been interpreted to mean that all persons should receive the same or similar treatment. But over time, we have come to recognize that the provision of the same or similar treatment to all persons or groups does not always yield an equal result, nor does it guarantee true equality. In the words of Judge Rosalie Silberman Abella, "We now know that to treat everyone the same may be to offend the notion of equality."

In August 1990, the Commission released its Guidelines on Special Programs as a working document. The Guidelines, developed by the Commission's Systemic Unit, explain the Commission's interpretation of Section 13 and the measures allowed under it. The message is that more than just avoiding deliberate discrimination, employers and service providers should adopt a broader view of equality and develop programs to actively promote equity.

As the Guidelines were being prepared, equity issues were becoming a topic of debate. The Ontario College of Art announced its plan to preferentially hire women into positions vacated by retiring faculty members. The plan would be enforced until the college's workforce reflected the representation of women in the society at large. The OCA sought approval from the Commission to implement its program under Section 13.

Through an extensive media campaign, the Commission invited submissions from interested parties and studied the matter. In July 1990 the Commission issued an Order stating that the OCA program did fall within the Guidelines for Special Programs under Section 13. The issuing of this Order means that the OCA has a defence to any complaints filed against the program.

The Order was issued with the proviso that:

- it remain in effect for a maximum of two years and;
- prior to June 1991 the OCA submit a detailed report to the Commission on the progress of the program. The report should also outline OCA's plans for implementing a similar program for Aboriginal Peoples, persons with disabilities and racial minorities.

This was the first such Order under the new Guidelines adopted by the Commission.

The Commission is appealing a case, **Edwin Roberts v. the Ministry of Health**, where Section 13 was used by the respondent as a defence to a complaint from a person excluded by a special program.

The Ministry's Assistive Devices Program provided funding for persons with disabilities to purchase assistive devices, but maintained an age restriction in order to limit the scope and cost of the program. When the age restriction was challenged, the Ministry argued that its program relieved hardship for persons with disabilities and was therefore permitted under Section 13.

The Commission argued that it is legitimate and reasonable for an organization to address the concerns of one identified group (or a subsection of a group), provided it supplies proof of special disadvantage. The Ministry's age restriction would have satisfied the Commission, for instance, if it had been based on objective proof that persons of a certain age with disabilities were especially disadvantaged and in need of assistive devices.

The Board of Inquiry disagreed with the Commission and held that although there was age discrimination in the program, the program was protected under Section 13 because it did assist some disadvantaged people. The Commission appealed this decision but the Divisional Court in December 1990 upheld the Board decision. In March 1991 the Commission decided to seek leave to appeal further.

The Commission's position on Section 13 is that it does not allow a Special Program for the benefit of one disadvantaged group (in this case persons with disabilities), to discriminate on other grounds (e.g. age).

The Ontario Court of Appeal decision of **Canada Trust Co v. OHRC** provides support for the Commission's view of special programs. The Court considered whether public policy would permit a charitable trust to administer educational scholarships restricted to white Christian males of British ancestry. The scholarships were reserved for financially needy members of that group.

The Court concluded that such a trust would not be allowed because it would discriminate on the grounds of race, colour, nationality, ethnic origin, religion and sex.

Mr. Justice Tarnapolsky noted that many educational scholarships in Canada are restricted to racial minorities, women and other disadvantaged groups. He pointed out that such scholarships would not be considered discriminatory in cases where the restrictions are aimed at achieving equality. The social and historical context of the group concerned would have to be considered.

In the Commission's view although the Leonard Foundation scholarships aimed at relieving hardship among financially disadvantaged students, there was no evidence that these students suffered disadvantage because of their race, gender, creed or other ground under the **Code**.

Women also frequently confront unequal conditions in the form of sexual harassment in their place of employment.

Women in Ontario continue to experience discrimination in the area of employment. They continue to be under-represented in the workforce in higher paying positions; they are frequently under-utilized in light of their qualifications; and they are often clustered in low paying job "ghettos".

Women also frequently confront unequal conditions in the form of sexual harassment in their place of employment.

In the past year, two Commission cases addressing sex discrimination and harassment have made a significant contribution to equity issues for women.

In the case of **Karen Youmans v. Lily Cups Inc. et al.**, a comprehensive and far-reaching settlement was negotiated, resulting in significant changes in the company's staffing practices.

In her complaint, Ms. Youmans alleged that during the course of her employment with the company she was subjected to discrimination, including harassment on the basis of her sex. Ms. Youmans worked with Lily Cups Inc. as a packer, a job which was at the time exclusively occupied by women.

After about one year with the company, she was hired as a service person, a position which paid more than packing; which was usually seen as an entry level job for men and which was dominated by men.

While in this position, Ms. Youmans claimed that her supervisors harassed her in a number of ways, including denying her a transfer to another shift, denying her overtime work, delaying her receipt of Workers' Compensation benefits and spreading rumours about her character.

She complained also that the provisions of the Collective Agreement only recognized seniority based on departmental service. This meant that women's seniority in areas traditionally staffed by women would not be recognized if they transferred to another department.

In such a case then, Ms. Youmans could be laid off from her job as a service person before a male worker who began working for the company as a packer after she did. She would also be recalled from layoff after that male employee and would thus be at a disadvantage in competitions for higher paying positions.

The complaint was referred to a Board of Inquiry but was resolved by agreement among the parties before the Board heard the evidence.

As part of the settlement, Lily Cups eliminated differences in pay among entry level positions, creating a single entry level classification. It also introduced a plant-wide seniority system for the purposes of the collective agreement.

Lily Cups agreed to:

- hire a minimum of one woman out of every two job competitions for designated positions beyond entry level. This would continue until the company achieved a percentage of women in those posi-



The Board of Inquiry held that comments mimicking the complainant and drawing attention to the fact that she was overweight, amounted to sexual harassment.

tions that reflected the number of women working in entry level positions (approximately 50%);

- create an on-going pool of female employees interested in advancement and to provide them with opportunities for obtaining the necessary skills for upper level positions;
- compensate the complainant in the amount of \$13,800 calculated on the basis of the alleged denial of job opportunities, lost wages and general damages.

This agreement was incorporated into the order by the Board as a means of resolving the complaint. It is the first order of an Ontario Board of Inquiry specifying an employment equity program with clear numerical goals for women in positions beyond entry level.

In the case of **Carol Shaw v. Levac Supply, Roger Levac and Herb Robertson**, Ms. Shaw claimed that over the course of her fourteen year employment with the company, she was subjected to demeaning comments and innuendos by a male co-worker, concerning her ability to do the job and concerning her physical appearance. The harassment eventually caused her to resign.

The Board of Inquiry held that comments mimicking the complainant and drawing attention to the fact that she was overweight, amounted to sexual

harassment. This ruling significantly broadened the interpretation of the section of the **Code** addressing harassment based on sex.

The Board found that “to express or imply sexual unattractiveness is to make a comment of a sexual nature” and that such verbal conduct “constitutes sexual harassment in the workplace if it is repetitive and has the effect of creating an offensive working environment....”.

The Board also ruled that co-workers’ behaviour amounted to gender harassment.

This case is also the first under the amended **Code** in which a Board found an employer liable for the harassing conduct of its employee. Ms. Shaw’s co-worker, supervisor and the company were found jointly liable in an award of \$5,000 for general damages and \$43,000 for specific damages.

The Board of Inquiry decision in the case of **Karen Aquilina v. Stephanie Pokoj** provided an excellent example of the **Code's** declaration that "it is public policy in Ontario to recognize the dignity and worth of every person... [in the] creation of a climate of understanding and mutual respect...".

In 1981, the **Code** was amended to add "handicap" as a prohibited ground of discrimination. The definition of "handicap" includes "a condition of mental retardation or impairment". The preferred terminology is 'a person with a developmental disability'. The Aquilina decision makes it clear that the **Code** prohibits personal and harassing comments against persons with disabilities.

Ms. Aquilina, who has cerebral palsy involving some cognitive deficiency, rented an apartment from Ms. Stephanie Pokoj. Ms. Pokoj attempted to control Ms. Aquilina's personal life, commenting on her make-up and involvement with male friends.

When Ms. Aquilina resisted this interference, Ms. Pokoj responded by making negative statements about her disability. She directed cruel verbal insults at her about her mental capacities. The Board of Inquiry awarded Ms. Aquilina special damages to compensate for moving costs and \$2,000 in general damages.

In recognizing and protecting the rights of persons with disabilities, the **Code** acknowledges their "inherent dignity" and right to "feel a part of the community". Mental disabilities are often subject to stereotyping and discrimination.

In the fall of 1982 Summit Halfway House, a non-profit organization that runs group homes for ex-psychiatric patients, leased a townhouse unit from Halton Condominium Corporation in Burlington.

When the Corporation realized that the occupants were going to be ex-psychiatric patients, it attempt-

ed to enforce a section of its condominium Declaration that allows only single families to occupy the residences. This would make it impossible for a group home to be run on the premises.

The Board of Inquiry ordered the corporation to interpret its Declaration in such a way as to allow group homes for persons with mental disabilities.

One interesting aspect of cases such as **Aquilina** and **Summit Halfway House**, is that there are often other factors involved that would seem to suggest that the action toward the persons with disabilities was justified. For example, Ms. Aquilina's complaint against Ms. Pokoj was complicated by the fact that there were also landlord-tenant problems involved in their dispute. The question, said Board Chair Berend Hovius, was whether Ms. Pokoj's behaviour toward her tenant was motivated by the tenant's disability.

" This aspect of the case presents some difficulty. Mrs. Pojoj rented the apartment to Ms. Aquilina without regard to the handicap and the two of them got along well initially...Problems then developed [when]... Mrs. Pokoj began to view Ms. Aquilina as an undesirable tenant ...To some extent therefore Mrs. Pokoj's harassment was motivated simply by a desire to get rid of a tenant...".

He ruled that the disability affected " both the intensity and the nature" of the harassment. He pointed to the fact that in criticizing Ms. Aquilina's use of heat when the weather was warm outside, she used a slur to associate her action with her disability. In responding to Ms. Aquilina's use of electricity, Ms. Pokoj turned the lights off on the stairs, even though she knew Ms. Aquilina had problems with physical coordination.



Employers, landlords and service providers are required to accommodate the religious needs of their employees, tenants and clients.

The increase in Ontario's multicultural diversity has inevitably brought with it a variety of religious observances. Employers, landlords and service providers are required to accommodate the religious needs of their employees, tenants and clients. This requirement was challenged, then confirmed, in two decisions last year involving the Peel Board of Education.

Commission staff met with members of the Sikh community and were told that the community was concerned over the lack of accommodation for their religious beliefs.

The Commission initiated a complaint against the Peel Board of Education on behalf of Sikh students, who were not allowed to wear their ceremonial daggers (kirpans) to school. The complaint was combined with that of Harbajan Pandori, a Khalsa (baptized) Sikh who wears a ceremonial kirpan. Pandori was advised by the Peel Board of Education that he would not be considered for supply teaching work unless he agreed to cease wearing his kirpan while in Peel schools.

A Board of Inquiry ruled that baptized Sikhs must be allowed to wear their kirpans in Peel schools. The ruling applied to teachers, staff and students. This decision came against the backdrop of Sikh RCMP police officers being allowed to wear turbans as part of their uniforms. A number of local municipalities were also examining their own policies on religious accommodation.

Gunther Plaut, appointed as a Board of Inquiry to hear and determine the complaint, found that the policy of the Peel Board of Education contravened the **Code**, and ruled that the policy must be withdrawn.

The Board of Inquiry also ordered that the school board must "make available ... funds [necessary to] assist principals in safeguarding both the legitimate exercise of religious freedom and the safety of all students, teachers and staff."

The Board of Inquiry instructed that kirpans worn to school should be "of reasonable size; that they shall not be worn visibly, but under the wearer's clothing; and that they shall be sufficiently secured so that removal, while not impossible, shall be rendered difficult."

The decision was appealed by the Peel Board of Education.

The intent of the organization must be in keeping with the spirit of the Code, respecting the dignity and inherent worth of all people.

In Section 17, the **Code** permits activities that are designed to preserve institutions that cater to religious, philanthropic, educational, fraternal or social interests of particular groups in society. It is under this section that support is given for multicultural organizations, as in the Board of Inquiry ruling in the case of **Gregory v. Donauschwaben Park Waldheim**.

Preserving Canada's multicultural heritage is a social objective reflected in the fundamental law of our country.

Section 27 of the Canadian Charter of Rights and Freedoms provides that the Charter be interpreted in a manner consistent with the preservation and enhancement of Canada's multicultural heritage.

It is important to note that section 17 of the **Code** could not be used to support the creation of, for example, white supremacist organizations. The intent of the organization must be in keeping with the spirit of the **Code**, respecting the dignity and inherent worth of all people.

In the case of **Gregory v. Donauschwaben Park Waldheim Inc.**, a person of non-German descent attempted to purchase a house that was part of property reserved for sale to persons of German extraction. The Board of Inquiry found that the Donauschwaben Park Waldheim Inc., which restricted the sale of its cottage properties to persons of German extraction or persons who speak German, was protected under section 17. The Board found that the non-profit Park carried out a

program of social and cultural activities designed to preserve and pass the German cultural heritage on to future generations.

The aim of the organization that ran the park was to:

- cultivate friendship among its members in order to further social and cultural objectives;
- advance the intellectual and physical well-being of its members
- support members in distress or need

Only members of the organization were entitled to occupy the property owned by the Donauschwaben group, whose activities include folk dancing, a choir, a brass band and an accordion band. Members of the organization met regularly to discuss maintenance of the park and were also responsible for its upkeep. Meetings are conducted in German and there are exchanges of visits as well as joint activities with other Donauschwaben groups.

One of the most extensive investigations in Commission history was initiated at the end of January 1991, when the Commission filed complaints against two Toronto employment agencies.

BACKGROUND

Since the mid-1970s, there have been a number of studies and surveys, particularly by the Canadian Civil Liberties Association, which have documented and condemned discriminatory practices by employment agencies. Such practices are especially difficult to investigate using the traditional approach, because the discrimination is usually rooted deep within organizations' systems of operation.

Most people apply to employment agencies expecting they will eventually be referred to employment. They are dependent on the agency itself to obtain the information about possible job openings. If they are not referred, they usually conclude that there were no openings for persons with their qualifications.

The allegations which surface persistently in Canadian and U.S. studies, however, are that employment agencies often act as intermediaries, used by recruiters to refer the "right" — white; young; attractive— kind of candidate. Qualified candidates from other groups are simply ignored.

It was against this backdrop that the Commission received information from a former employee of two Toronto agencies, suggesting that the agencies were engaging in blatantly discriminatory practices.

Having diagnosed the problem as a function of the way the referral system worked, the Commission through its Systemic Investigation Unit decided to take a strategic enforcement approach to the investigation. The information provided on the two agencies, combined with the research available on the practices of employment agencies, allowed the Commission to make a decision initiating investigations into their practices. The Commission felt that if the investigations identified structural barriers, a remedy could be devised that would help reshape the industry.

The Commission's decision dovetailed with two important external factors:

1) Community Concern: For some time, the Commissioners had been concerned about the issue of employment agencies and the impact of their practices on groups protected under the **Code**. Staff of the Systemic Unit consulted with organizations representing minority communities on this issue and found broad-based support for the Commission's involvement.

Following consultation the Commission decided to use its powers to initiate a complaint against both agencies, alleging discrimination on the grounds of race, colour, sex, handicap and age.



2) A new survey: About two weeks before the Commission launched its initiative, the Canadian Civil Liberties Association released yet another study of the industry, this time a phone survey of 18 agencies, 15 of whom expressed a willingness to discriminate on behalf of the "client" who called. The media attention generated by this study helped prepare the ground for the first human rights investigation its kind in Canada.

A detailed investigation plan was prepared and the initiative was approved by the Commission. On January 31, 1991 the two investigation teams arrived at the headquarters of each agency. After some negotiation and consultation with legal counsel, both agencies agreed to allow the investigation teams full access to their documents and records.

PLANNING AND TEAMWORK

The Systemic Unit took responsibility for coordinating the initiative, preparing two teams of four human rights staff each, for the preliminary investigation phase. Staff members from other parts of the Commission were also involved. They included a member of the legal staff with experience in fraud investigation; a senior human rights officer with expertise in freedom of information and privacy issues; and several seasoned human rights officers. To handle computerized records, forensic accountants were hired. Their job would be to accompany each team in order to gain access to agency computers and copy information for off-site analysis.

RESULTS

The investigation proceeded smoothly and on schedule. Investigators finished their on-site work within two weeks of their arrival. One week later, preliminary analysis of the investigation teams' findings was completed.

Early in the investigation, both agencies expressed interest in finding a speedy resolution to the complaints. (Section 32.1 of the **Code** instructs the Commission to "endeavour to effect a settlement" upon investigating a complaint). In March 1991 staff obtained letters of commitment from the two agencies, T.E.S. Contract Services and Ian Martin Limited. The agencies agreed to take broad remedial action, subject to approval by the Commission.

From the outset, the Systemic Unit envisioned a broad, comprehensive remedy that could become a guideline for the industry. The proposed agreement with the two agencies directly addressed the findings of the investigation, but were generic enough to bear on industry practices generally.

Subject to approval from the Commissioners, the two respondents have committed to:

- a. develop written policies regarding the recording of information in applicant files and the handling of discriminatory job requests;
- b. provide training to their staff in the areas of human rights, race and ethnic relations, managing diversity, employment equity, accommodation and gender issues and human resources management;
- c. develop a detailed record keeping, data collection and data retention system;
- d. provide reports to the Commission, at regular intervals on the number of referrals and placements made;
- e. hire a consultant to devise and implement an employment equity plan with respect to placements and staffing profile.

As part of such an agreement, the Commission would monitor the agencies to ensure that suggested remedies are being put in place. The Commission might also conduct spot audits to make sure that the agencies are abiding by the **Code**.

Settlement discussions are still underway. If the Commissioners reject the proposed settlement, they could direct that a new settlement be negotiated, or they could request the Minister of Citizenship to appoint an independent Board of Inquiry to hear the evidence gathered in the investigation and make a decision in the case. They could also under Section 35 dismiss the case if the evidence does not warrant appointment of a Board of Inquiry.

IMPACT

While the investigation was underway, the Ministry of Labour, which licences employment agencies, approached the Commission for advice on developing more effective regulations for the employment agency industry. The Commission suggested that several elements of the proposed agreement with the agencies in this case be included in any new regulations.

There has been extraordinary and continuing media coverage, as well as a number of calls from employment agencies requesting education sessions. Employment agency associations have met with Commission staff and there has been increased interest in other parts of government concerning the Commission's approach to investigating systemic discrimination.

Some agencies have also volunteered to develop employment equity programs and have consulted with the Commission on how such programs might work.



In 1986, "sexual orientation" was added to the list of grounds upon which discrimination is prohibited under the **Code**. This amendment came into force at the end of 1988. Consequently, the **Code** now prohibits discrimination on the basis of sexual orientation in employment; in the provision of goods and services; in facilities; in accommodation; in contracts; and in membership in vocational associations.

In the last year, one aspect of discrimination based on sexual orientation, spousal benefits for the same-sex partners of gay men and lesbians, has gained increasing prominence. Until recently, most employers failed to provide dental, medical and other employment benefits to the same-sex partners of gay and lesbian employees. Heterosexual employees, however, were able to claim such benefits, typically described as "spousal" or "dependent" benefits, for their legal or common-law spouses.

This discrepancy in the provision of spousal benefits formed the basis of a complaint filed against the government of Ontario in its capacity as employer. In 1990, this complaint was referred by the Commission to a Board of Inquiry. Shortly after the Commission's decision to refer this complaint to a Board of Inquiry, the government of Ontario announced that it would extend most spousal employment benefits to the same-sex partners of its gay and lesbian employees.

At present, the parties to this complaint are examining possible changes to the one outstanding benefit, pensions, which is currently not available to the partners of gay and lesbian employees.

The government of Ontario is not the only employer to have introduced changes to its workplace. During the past year several employers have made similar changes in their benefits policy so that benefits packages no longer exclude the partners of gay and lesbian employees.



This ruling could have significant implications for young families, who are often forced to rent because of the high cost of housing.

Section 2 (1) of the **Code** prohibits discrimination in housing on the basis of 15 grounds, including family status.

Under this provision apartments and houses offered for "adults only" are no longer permitted. Last year in the case of **Cryderman v. York Condominium Corporation No. 216 et al.**, a Board of Inquiry ruled that Section 2 (1) also applies to the rental of condominium units.

This ruling could have significant implications for young families, who are often forced to rent because of the high cost of housing.

The migration of large numbers of people into southern Ontario during the 1980s placed a severe strain on existing housing stock and resulted in a rapid rise in the cost of housing. The increase in house prices in southern Ontario put many homes beyond the reach of first-time buyers, prompting developers to construct a substantial number of new homes, an increasing proportion of which were condominiums. In 1984 condominium units represented 4.7% of all housing starts. By 1988 this figure had risen to roughly 33%.

While most condominiums are owner-occupied, many are rented, sometimes to tenants who do not even know they are renting condominiums. The scarcity of affordable rental housing, especially since 1975 has made condominiums an increasingly important source of rental accommodation. Thus, rules of a condominium corporation can affect large numbers of renters as well as owners.

Condominiums, almost always townhouses or apartments, are governed by condominium corporations, whose directors are elected by unit owners. The corporation has the authority under the Condominium Act to pass bylaws. These bylaws govern, among other things, the fees to be charged for property maintenance and the use of common elements (e.g., the lobby, swimming pool, gym, laundry, etc.). As well, they may place restrictions on the uses to which units can be put. For example, many condominium corporations do not allow a unit owner to run a business out of his or her unit.

In 1990 a three-person Board of Inquiry was convened to hear several complaints against a number of Toronto-area condominium corporations that prohibited families with children under a certain age from living in their units. This case had significant ramifications for the condominium industry, since the evidence showed that many condominium corporations across the province had adult-only rules.

The Board found that the adult-only restrictions discriminated on the basis of family status, against

The Board found that the **Code**, in limiting protection against age discrimination in housing to those 18 and over, contravened Section 15 of the Charter of Rights and Freedoms.

both adults and children in a family relationship. It further found that the restrictions discriminated against adults with children by denying them the right to enter into contracts without being discriminated against on the basis of their family status.

The respondent condominium corporations argued that the adult-only restriction was one based on age and not family status, in that the by-law excluded occupancy by persons 14 and under only, and therefore did not exclude families.

Since the **Code** provides protection against age discrimination only to those 18 and over, the corporations argued that their adult-only restrictions on children under 18 were not covered by the **Code**.

The Board found that the **Code**, in limiting protection against age discrimination in housing to those 18 and over, contravened Section 15 of the Charter of Rights and Freedoms. This section guarantees that "every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination based on ... age".

The Board made reference to Section 1 of the Charter, which allows for limitations on the rights protected in Section 15, if these limitations can be "demonstrably justified in a free and democratic society". It said, however, that in the area of housing, discrimination on the basis of any age is not 'demonstrably justified'. In other words, the **Code** must provide protection against discrimination for all individuals, regardless of their age, in the area of accommodation.

The Board ordered the condominium corporations to remove their age restrictions and awarded over \$36,000 in specific and general damages to the complainants. One of the complainants, who was forced to sell her unit, was awarded \$25,000 in general damages.

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The Communications and Education Unit has responsibilities in the areas of education, training, communications, publications, outreach and special programs and projects.

Section 28 (d) of the **Code** requires the Commission to "develop and conduct programs of public information and education". In carrying out its mandate last year, the Unit took some significant steps. These included:

- developing and implementing a human rights training program for the Ontario Public Service, titled "**The Human Rights Code and its Implications**." The program was designed for managers, supervisors and human resource practitioners and was offered in partnership with the Human Resources Secretariat;
- providing human rights training to trainers in business, industry and government agencies;
- completely revamping the Commission's publication distribution system, leading to distribution of more than a quarter million copies of publications;
- offering all publications produced by the Commission on audio-tape (French or English) on computer disk, in large print and in other languages on demand;
- producing two publications – Human Rights in Ontario, and If you Have a Human Rights Complaint using 'plain language format';
- distributing more than 60 news releases and press advisories, the largest number in Commission history;
- providing some 7,000 organizations with information packages on the December 10 International Human Rights Day;
- producing the Commission's Annual Report;
- launching a poster with the theme of "Equality" as a part of the December 10 International Human Rights Day celebrations;
- coordinating a native peoples outreach project to provide the Commission with feedback and advice on how to better serve the native community;
- coordinating forums on the Guidelines for Assessing Accommodation Requirements for Persons with Disabilities in Windsor, Hamilton and London.

Director: Alan Shefman

The Unit also played a support role to other operational initiatives across the Commission. Activities included:

- designing, developing and coordinating the most ambitious training conference in the history of the Commission. The three-day conference, was designed to assist human rights officers develop and refine their professional skills;
- organizing a two-day training and development conference for support staff who handle calls from the public to the Commission. This conference was designed to assist staff in providing consistent and sensitive service to the public;
- organizing a training session for regional managers and case coordinators on the Commission's policy document on Racial Slurs and Harassment and Racial Jokes;
- providing training support and advice to the Commission's Case Management Plan.

As the communications centre of the Commission, the Communications and Education Unit handles many of the day to day queries from the media and the public. Last year the Unit responded to hundreds of such queries; distributed Board of Inquiry decisions; coordinated speaking engagements for the Commissioners and Chief Commissioner and provided advice to other Units in the Commission on servicing the media and the public.



The Compliance Unit is the largest in the Commission. It operates through the staff of the 15 district offices in seven regions of Ontario.

The staff of the Unit is the public's first contact with the Commission. It is at the local level that complaints of discrimination are filed. The primary responsibility of the Unit is to investigate and resolve human rights complaints.

Staff also educate, train and provide advice to private and public sector employers , educational institutions, organized labour , advocacy groups and the public. In light of high priority being given to caseload reduction, however, staff activity in these areas has been somewhat reduced.

Initiatives for 1990 included:

- coordinating and implementing the Case Management Plan. The Plan features wide-ranging measures to increase the Commission's efficiency in responding to the large number of complaints and inquiries it receives. The main objective of the Plan is to reduce the existing caseload while cutting the length of time it takes to resolve new complaints. Elements include:
 - a special task force created to complete investigation of the Commission's oldest complaints. The task force consists of 10 officers, a manager and a case coordinator;
 - assigning only 10 cases at any time to human rights officers across the Commission (to improve morale and case handling efficiency); introducing a system of case handling which gives priority to urgent cases , such as those where the complainants have only a short time to live;
 - giving legal staff specific regional responsibilities so officers can have easier access to legal support;
 - Completing the Procedural Manual which will ensure consistency in complaint procedures across the Commission;
 - creating new administrative roles to improve service: a Case Co-ordinator for each region, a Senior Case Co-ordinator, an Inquiries Co-ordinator, and a manager of Case Management;
 - giving regional managers authority to review and close certain cases. These are cases

where the complainants have decided to withdraw their complaint; where they have abandoned the case or where a settlement has been arrived at by our internal process of Early Settlement Initiative;

- completing a major realignment of the Compliance Unit and the Legal Services Unit in March, 1991. Because regional offices are the front line delivery system for the entire Commission, it was felt that their operation requires a full-time leadership. A new Regional Services Unit was created, headed by the Director of Compliance.

The Unit manages the regional offices (including planning, performance management and resource allocation) and develops new, regionally based methods for delivering Commission programs. The Unit is also responsible for the Office of Reconsideration.

A position of Director Responsible for Case Management was also established last year. This position will take responsibility for case management, including case processing and monitoring, implementing the Case Management Plan, and the task force.

Director: Marty Schreiter

T

he Finance & Administration Unit supports the Commission's operations in human resources, financial planning and management, information technology and systems, and administrative services.

The Unit does this through developing and implementing sound management processes, policies and procedures.

In the past year, the Unit has:

- developed the Commission's Strategies for Renewal and an employment equity plan for 1991/92;
- begun development of a Commission performance management system;
- developed personnel, training and development strategies for the Commission;
- completed physical demands analyses for all Commission jobs;
- strengthened the Commission's financial management by developing or refining planning, budgeting and administrative processes and practices;
- decentralized budgetary responsibilities to the Commission's Units and its regional offices; improved the Commission's accountability, approval and monitoring processes;

- introduced an operational planning process;
- completed a plan for the Commission's information technology;
- provided computer software applications to all offices, to promote efficiency in handling administrative workload;
- trained staff, including those with special needs and disabilities, on the use of information technology.

The Unit also completed an accommodation plan for the Commission's head office and regional offices, to ensure that Commission facilities and resources are fully accessible to persons with disabilities.

Director: **Albert Ganesh**



The Legal Services Unit assists the Commission in fulfilling all aspects of its mandate, particularly in investigation and conciliation, public education and litigation.

The Unit supports the work of human rights officers, regional case coordinators, regional managers and the special case management task force, by providing legal advice to assist in the resolution of complaints. A substantial amount of time is spent providing legal opinions on complaints and on other procedural issues relevant to the Commission. Members of the Unit also act as counsel to the Commission on matters of judicial review and on appeals.

Over the past year 28 new Boards of Inquiry were appointed while 36 newly appointed or continuing Boards were completed. Of the Boards completed 10 decisions were in favour of the complainants while 3 were in favour of the respondents. The Commission is currently involved in 10 appeals of Board of Inquiry decisions. (See Table 8 in Appendix for details).

Previously, the Commission retained the services of legal staff from the Ministry of the Attorney General or from private practice, to appear on its behalf of the Commission before Boards of Inquiry and the Courts. Since 1988 the Commission's staff counsel has handled complaints and developed expertise in the human rights field.

Legal staff respond to inquiries from lawyers in government and private practice and from the public. They also participate in workshops, seminars and conferences.

Director: Mark Frawley



The Policy and Research Unit develops policies and guidelines on the interpretation and application of the **Code**. These documents are designed for use by both Commission staff in the investigation of complaints and by members of the public who want to know their rights and responsibilities under the **Code**.

The Unit provides policy advice to the Commission. Its staff also represent the Commission on external committees and provide advice to organizations as part of the Unit's mandate to monitor and attempt to resolve human rights issues.

In the past year the Unit has engaged in the following activities:

- consulted with the Ministry of Education and the Ministry of Health to ensure that their statutes comply with the **Code**;
- provided input into the Ministry of Labour's proposed revisions to the Employment Standards Act and the Employment Agencies Act;
- consulted with the Ministry of the Solicitor General on the human rights implications of a "common pause" day and with the Ministry of Housing on issues relating to housing for seniors;

- met regularly with the Coalition of Lesbian and Gay Rights of Ontario, to identify community's concerns and to assist it with its equity issues;
- consulted with groups representing tenant rights, on issues relating to poverty and access to housing;
- attended and participated in a variety of conferences and educational forums by bodies such as the Canadian Bar Association, Ryerson Polytechnical Institute and the Canadian Public Personnel Management Association;
- coordinated an information exchange with other human rights agencies at the national and international level. The Director of the Unit continues to serve as the First Vice President of the International Association of Official Human Rights Agencies (IAOHRA). Through involvement with IAOHRA and its Canadian counterpart (CASHRA), the Commission contributed to new and cooperative solutions to discrimination.

The Systemic Investigations Unit addresses discrimination present in the inner workings (or systems) of organizations. Systemic discrimination is not always visible. Rather, it is found in policies and practices that on the surface appear neutral, but which when applied can discriminate against members of groups protected by the **Code**.

The Unit last year developed Guidelines to assess programs ('special programs') for helping disadvantaged groups to gain equity in areas covered by the **Code**.

These Guidelines were created to encourage employers, service providers, landlords and others to review their operations and take steps to eliminate barriers to equality.

Because systemic discrimination often forms part of how organizations work, the most effective means of addressing it begins with initiatives to change the organization's way of operating. This can be done by creating a 'special program', such as an employment equity program, aimed at increasing the number of designated group members in the workplace. (The groups designated by the Ontario government for special provisions in the Ontario Public Service are persons with disabilities, Aboriginal Peoples, women, racial minorities and francophones).

The Guidelines help organizations to understand how their program would likely be assessed by the Commission, if that program were to be challenged in a complaint. The Guidelines played an important role in the Commission's review and approval of an employment equity program implemented by the Ontario College of Art. (See page 19)

ENFORCEMENT

The Unit is responsible for "strategic enforcement" of the Commission's "Guidelines for Assessing Accommodation Requirements for Persons With Disabilities". This involves identifying and attempting to dismantle systemic barriers faced by persons with disabilities. Last year barriers were identified through community consultation and recommendations were made to the Commission to initiate complaints against several organizations.

One such complaint was laid against Trent University. Through the Unit's community consultation, the Commission learned first-hand how lack of access to higher education creates barriers to the future career success of persons with disabilities. Obstacles they encounter in universities include not being able to enter buildings and not having material in a format they can use.

In November 1990, after being made aware of concerns brought forward by students with disabilities, the Commission initiated a complaint against Trent University and the Ministry of Colleges and

Director: Anita Dahlin

Universities. The complaint is currently under investigation. Last year the Unit also:

- worked with the Compliance and Legal Units to initiate discussions with the Ministry of the Attorney General and the Ministry of Government Services on the issue of access for persons with disabilities to courthouses throughout the province;
- negotiated with the ministries to develop a plan outlining a timetable to make all leased and owned courthouses in the province accessible to persons with sensory and mobility impairments. The Ministry of the Attorney General has also agreed to adopt a communications strategy outlining its commitment to accommodation. This commitment will involve, where necessary, moving court proceedings to alternative venues;
- took the lead role in coordinating the Commission's complaints against two Toronto employment agencies (See page 27);
- worked closely with the Legal Unit to construct a detailed employment equity remedy as settlement to a sex discrimination complaint against Lily Cups Inc. (See page 21). Although the complaint was filed by an individual, the systemic remedy was applied across the organization to deal with the under-representation of women caused by the kind of barriers the complainant faced.

PUBLIC EDUCATION AND OUTREACH

In the area of public education and outreach, the Unit reviewed special programs submitted by service providers and employers. The Director also attended the launches of employment equity programs at the University of Guelph and the University of Windsor and addressed a provincial meeting of employment equity coordinators. Unit staff made a number of presentations and addressed meetings dealing with employment equity, transportation for disabled persons, AIDS, and substitute decision making and consent to health services.

On December 10, 1990, in commemoration of International Human Rights Day, the Unit spent the day filling food orders at the Daily Bread Foodbank. This was an opportunity to learn first-hand about the impact of hunger, and the dignity denied those who must endure line-ups to obtain such a fundamental human right as food.

EMPLOYMENT EQUITY

The Executive Director is directly responsible for the Commission's Employment Equity program. Implementation of the program began in May 1990, with the hiring of an employment equity coordinator.

The goal of the employment equity program is to create a workforce that at all job levels reflects the make-up of the Ontario population. This will be accomplished by increasing the number of staff from designated groups [women, aboriginal peoples, racial minorities, persons with disabilities and Francophones] at all levels of the Commission.

The main thrust of the program is to undertake supportive, remedial and direct measures in:

- internal staff development and promotion and;
- external recruitment and selection.

This is being accomplished against a backdrop of a high percentage of job applicants from designated groups and, more importantly, a recognition of the need to provide service to Ontario's diverse population.

INTERNAL DEVELOPMENT AND PROMOTION

Activities in this area include:

- creation of 14 'bridging' positions to provide opportunity for administrative support staff to develop skills as human rights officers; and for human rights officers to work as managers;
- designating temporary vacancies as acting assignments for staff;
- creating of a one-year developmental position to train a support staff member from a designated group as a Level 1 human rights officer;
- establishing a support staff forum to provide input and feedback on employment equity issues in the workplace. This also provided opportunities for support staff to gain experience in organizing and chairing meetings;

- researching the use of mentors to assist in career development.

EXTERNAL RECRUITMENT AND SELECTION

Key initiatives included:

- developing a policy that includes designated group membership as one of the factors considered during the hiring process, when candidates are qualified and when seniority is not a factor;
- replacing the university degree as a job pre-requisite, with a required combination of education and work experience;
- sending notices of Commission job postings to 110 community agencies;
- contributing to the increase in the number of aboriginal persons and persons with disabilities hired in the head office and in the Toronto region, by establishing partnerships with agencies serving members of those groups;
- meeting and in some cases exceeding employment equity hiring targets across the Commission. Of 58 staffing decisions (39 of which were management and non-clerical staff positions), 53 or 91 percent of competitions were won by members of designated groups. Seven out of 10 one-year positions on a special investigative task force were awarded to members of employment equity target groups.

The speed with which the employment equity program is implemented will depend largely on vacancies and on financial resources. However, the achievement of a workforce that reflects the Ontario population is a top priority and one to which much effort is being dedicated.

Executive Director: Lesley Lewis

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APPENDIX 1 - TABLE 1

COMPLAINTS BY REGION OF REGISTRATION AND GROUNDS

	Race/Colour (Citizenship/ancestry/place of origin)	Ethnic Origin	Sex And Pregnancy	Sexual Orientation	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance (Only in Accommodation)	Record of Offences (Only in Employment)	Breach of Settlement	Reprisal	Percentage %	Total
Eastern	29	17	6	56	25	2	19	14	4	112	8	0	0	1	293 15
Hamilton/Niagara	13	3	1	32	18	3	7	4	6	79	2	0	3	0	171 9
Northern	29	15	6	49	17	4	18	8	20	100	6	0	0	0	272 14
Southwestern	22	10	4	33	35	4	24	3	14	124	4	0	0	0	277 14
Toronto Central	65	14	14	51	25	19	24	4	11	102	5	1	3	0	338 17
Toronto East	68	13	5	61	24	3	21	4	14	134	1	1	3	0	349 18
Toronto West	58	10	7	32	13	2	12	3	10	106	9	0	4	2	268 14
Total	284	82	43	314	157	37	125	40	79	757	35	2	13	3	1968
Percentage %	14	4	2	16	8	2	6	2	4	38	2	0	1	0	

COMPLAINTS RECEIVED BY GROUND AND PROVISION

	Race/Colour (Citizenship/ancestry/ place of origin)	Ethnic Origin (Citizenship/ancestry/ place of origin)	Creed	Sex And Pregnancy	Sexual Orientation	Sexual Harassment	Age	Marital Status	Family Status	Handicap	Public Assistance (Only in Accommodation)	Record of Offences (Only in Employment)	Breach of Settlement	Reprisal	Percentage %	Total
Services	58	20	7	13	0	14	8	15	7	113	0	0	0	0	255	13
Accommodation	33	5	0	4	4	5	8	8	45	28	34	0	0	0	174	9
Contracts	2	0	0	3	0	0	1	1	0	2	0	0	0	0	5	8
Employment	188	57	36	293	153	18	107	16	27	610	1	2	0	0	356	76
Vocational Association	3	0	0	1	0	0	1	0	0	4	0	0	0	0	8	8
Reprisal	0	0	0	0	0	0	0	0	0	0	0	0	0	13	0	13
Breach of Settlement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0
Total	284	82	43	314	157	37	125	40	79	157	35	8	15	3	1571	
Percentage %	14	4	2	16	8	2	6	2	4	38	2	0	1	0		
Extension of Code Provision also cited in complaints:																
Constructive	1	1	0	5	0	2	3	0	1	3	2	0	0	0	0	

APPENDIX 1 - TABLE 3

SETTLEMENTS EFFECTED BY GROUND

	Number of Complainants Who Receive Damages	Offer of Job or Facility	Offer of or Consideration for Next Job or Facility	Affirmative Action Implemented	Responsive Action Implemented	Seminar Staff	Review of Policies or Documents with Respondent Staff	Review of Policies or Documents with Seminars Staff	Issuance or References of Corrections to Complainant	Written Declaration of Management Policies to Complainant	Letter of Apology to Complainant	Written Declaration of Management Policies to Complainant
Race/Colour	\$247,155	44	18	2	1	10	19	17	24	55		
Ethnic Origin	\$5,318	5	10	0	1	2	9	4	11	9		
Creed	\$60,907	5	5	2	0	0	5	0	4	7		
Sex & Pregnancy	\$172,156	58	36	4	3	3	28	19	14	66		
Sexual Harassment	\$154,666	54	4	1	0	11	24	11	16	49		
Sexual Orientation	\$6,622	6	4	1	1	0	5	1	8	9		
Age	\$93,727	14	17	3	0	0	6	4	4	19		
Marital Status	\$28,400	8	5	1	0	3	3	1	6	7		
Family Status	\$19,800	14	20	2	0	1	16	0	10	20		
Handicap	\$570,650	187	130	12	1	18	61	60	33	163		
Receipt of Public Assistance	\$550	2	2	1	0	0	2	0	3	5		
Others	\$7,000	2	0	0	0	0	0	2	0	2		
Total	\$1,366,951	399	251	29	7	48	178	119	133	411		

APPENDIX 1 - TABLE 4

	Race/ Colour (citizenship/ ancestry/ place of origin)	Ethnic Origin	Sex And Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences (only in Employment)	Breach of Settlement/ Reprisals/ No Grounds (only in Employment)	Public Assistance (only in Accommodation)	Total	Percentage %	
Employment															
Settled	88	28	20	151	93	9	49	9	16	425	0	1	0	83	66
Dismissed/ Not Pursued	35	16	8	13	8	2	14	4	0	76	0	0	1	177	13
Withdrawn	32	9	4	38	36	3	27	6	1	127	0	1	0	234	21
Sub-Total	155	53	32	202	137	14	90	19	17	626	0	2	1	1344	
Accommodation															
Settled	17	3	1	8	1	2	9	8	37	14	16	0	0	116	77
Dismissed/ Not Pursued	2	0	0	0	0	0	0	0	4	1	1	0	0	8	5
Withdrawn	5	0	1	1	0	2	0	2	4	6	5	0	0	26	17
Sub-Total	24	3	2	9	1	4	9	10	45	21	22	0	0	150	
Services															
Settled	33	8	5	12	0	14	9	8	5	59	0	0	0	153	68
Dismissed/ Not Pursued	4	12	2	3	0	5	2	1	0	9	0	0	1	39	17
Withdrawn	10	4	3	1	0	0	1	3	1	9	0	0	1	33	15
Sub-Total	47	24	10	16	0	19	12	12	6	77	0	0	2	225	
Contracts/ Vocational Associations/ Reprisals/ Breach of Settlement															
Settled	5	0	1	1	0	0	0	1	0	3	0	0	5	15	42
Dismissed/ Not Pursued	1	1	0	0	0	1	0	1	0	2	0	0	8	14	37
Withdrawn	1	0	0	0	0	0	1	0	0	3	0	0	3	8	21
Sub-Total	7	1	1	1	0	1	1	2	0	8	0	0	16	38	

APPENDIX 1 - TABLE 5

EMPLOYMENT COMPLAINTS CLOSED BY DISPOSITION AND GROUND

	Race/Colour (relationship, ancestry, place of origin)	Ethnic Origin	Sex And Pregnancy	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences (only in Employment)	Breach of Settlement/ Repirals, No Grounds	Total	Percentage %
Recruitment & Hiring												
Settled	14	7	5	29	1	20	2	10	47	0	0	135
Dismissed/												69
Not Pursued	3	8	2	4	0	3	0	0	8	0	0	28
Withdrawn	4	2	2	7	0	7	1	0	9	1	0	33
Sub-Total	21	17	9	40	1	30	3	10	54	1	0	196
Percentage%	11	9	5	20	1	15	2	5	33	1	0	
Termination												
Settled	36	9	4	92	3	21	6	4	292	0	0	473
Dismissed/												65
Not Pursued	11	6	2	6	0	4	2	0	56	0	1	68
Withdrawn	15	4	2	22	2	14	4	1	100	0	0	154
Sub-Total	62	19	8	120	5	39	12	5	454	0	1	725
Percentage%	9	3	1	17	1	5	2	1	62	0	0	
During Employment												
Settled	38	12	11	30	5	8	1	2	80	1	0	168
Dismissed/												64
Not Pursued	21	2	4	3	2	7	2	0	12	0	0	53
Withdrawn	13	3	0	9	1	6	1	0	18	0	0	51
Sub-Total	72	17	15	42	8	21	4	2	110	1	0	292
Percentage%	25	6	5	14	3	7	1	1	38	0	0	
Total	155	53	32	202	14	90	19	17	628	2	1	1213

EMPLOYMENT COMPLAINTS CLOSED BY TYPE OF WORK

	Race/Colour (citizenship, ancestry, place of origin)	Ethnic Origin	Sex And Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences (only in Employment)	Breach of Settlement/ Repirals / No Grounds	Total	Percentage %	
Professional/ Managerial/ Technical (Lawyer, Technician, Manager, Teacher, Inspector, Nurse, etc.)	45	18	10	47	14	5	32	5	3	71	0	0	250	19
Sales (Sales Representative, Buyer, Sales Clerk, etc.)	8	3	1	17	17	3	10	1	0	48	0	0	108	8
Clerical (Typist, Filing / Account Clerk, Receptionist, Key Puncher, etc.)	24	10	6	61	44	1	19	4	9	101	0	0	270	21
Crafts and Foreperson (Plumber, Baker, Hairdresser, Lead Hand, Mechanic, etc.)	8	5	1	11	6	1	1	1	1	56	0	0	91	7
Operatives (Punch Press / Lathe / Machine / Crane operator, Welder, etc.)	16	4	1	11	4	0	2	1	0	71	0	0	110	8
Services (Waiter / Waitress, Domestic, Building Superintendent, Security Guard, etc.)	26	6	4	33	33	2	19	3	3	65	0	1	155	15
Labour / General (Driver, Shipper, Cleaner, Assembly Line Worker, Labourer, Factory Hand,etc.)	28	7	9	22	19	2	7	4	1	216	2	0	317	23
Total	155	63	32	202	137	14	90	10	17	628	2	1	1320	

APPENDIX 1 - TABLE 7

CASES CLOSED BY RESPONDENTS' TYPE OF INDUSTRY

	Race/Colour (citizenship/ancestry/place of origin)	Ethnic Origin	Sex And Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance (Only in Accommodation)	Record of Offences (Only in Employment)	Breach of Settlement/ Reprisals / No Grounds	Total	Percentage %	
Natural Resources	2	0	0	4	2	0	0	0	1	20	0	0	0	29	2
Manufacturing															
Metals/Parts/ Machinery	15	1	0	12	6	0	5	0	0	55	0	0	0	94	
Food/Tobacco	5	1	2	1	4	0	0	2	0	21	0	0	0	37	
Wood/Furniture/Paper	1	0	0	2	3	0	3	0	0	17	0	0	0	26	
Automotive/Aircraft	9	2	1	3	3	1	4	2	0	45	0	0	0	71	
Electrical	6	1	0	6	2	0	0	1	0	16	0	0	0	32	
Others	10	3	2	15	8	2	9	3	1	94	0	0	0	148	
Sub-Total	46	8	5	39	26	3	21	8	1	248	0	0	3	408	23
Construction															
Transportation/ Communications/ Utilities	4	2	2	3	5	0	1	0	0	11	0	0	0	28	2
Trade and Retail	8	8	4	7	5	2	2	4	1	31	0	1	0	73	4
Sub-Total	25	6	2	36	26	2	12	5	2	108	1	0	0	225	13
Finance/Insurance/ Real Estate															
Schools/Colleges/ Universities	33	4	2	25	9	5	15	10	46	47	19	0	4	219	12
Community/Business/ Personal Services															
Hospitals/Physicians	14	7	5	9	2	3	6	3	0	13	0	0	2	76	
Employment Agencies	9	2	4	7	3	2	9	0	1	38	0	0	1	76	
Hotels/Restaurants	1	1	0	2	2	0	3	0	0	4	0	0	0	13	
Others	20	4	2	26	21	3	8	0	5	39	1	0	3	132	
Sub-Total	47	19	11	52	35	8	21	10	8	121	0	0	4	336	
Public Administration	91	33	22	96	63	16	47	13	14	215	1	0	10	521	35
Total	24	20	8	18	2	10	14	3	3	54	1	1	2	160	9
	233	81	45	228	138	38	112	43	68	734	22	2	10	1763	

BOARDS OF INQUIRY APPOINTED & COMPLETED

1990/91
1989/90

Boards Appointed	28	21
Boards Completed	36	19
Pre-hearing settlements	20	10
Decisions for Complainant	10	5
Decisions for Respondent	3	4
Board Decisions Under Appeal	10	7

INQUIRIES, VOLUNTARY COMPLIANCE AND PUBLIC EDUCATION

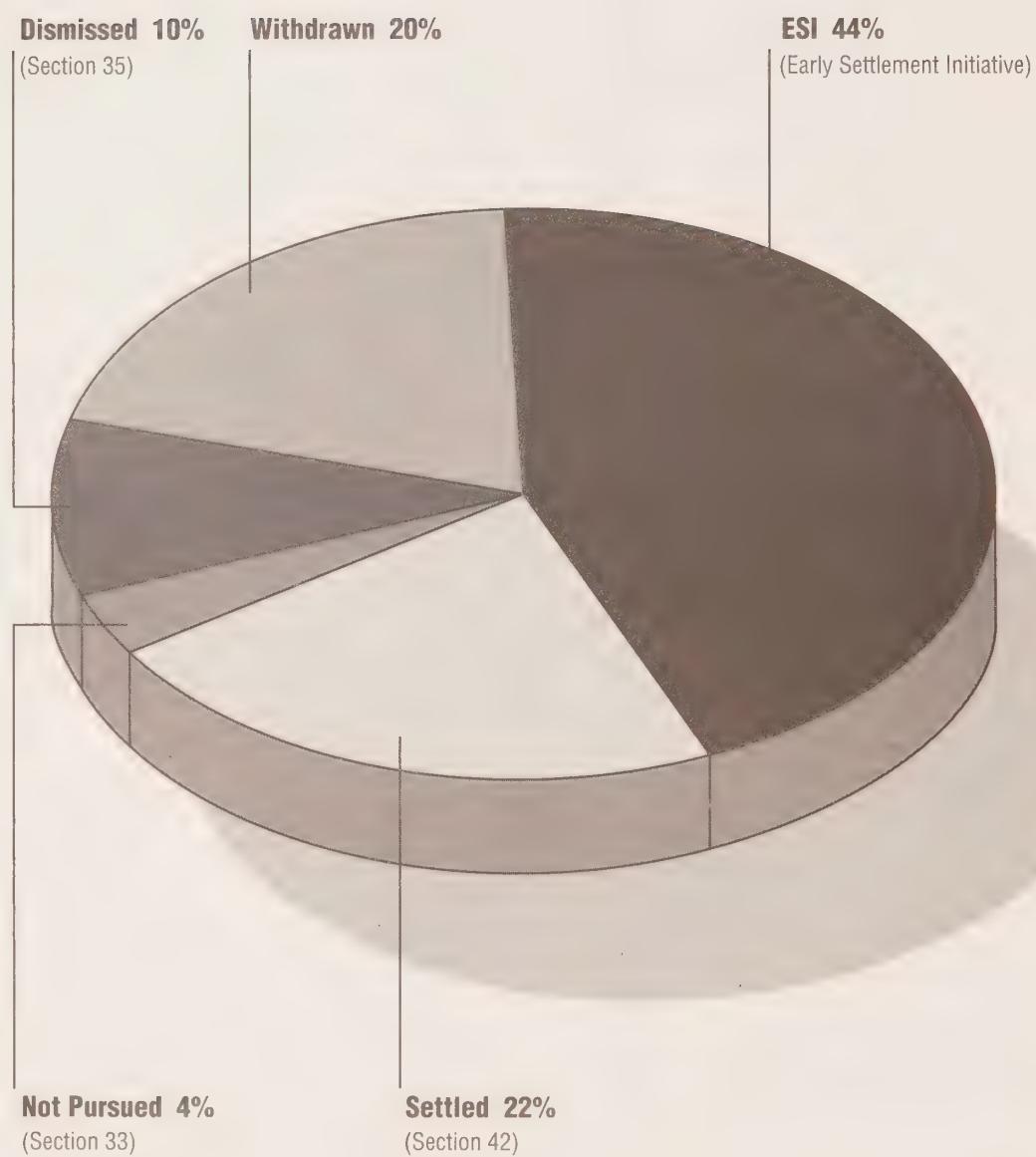
1990/91
1989/90

Inquiries	56,448	61,901
Referrals	13,895	13,594
Application Form Reviews	447	470
Public Education Activities	332*	402

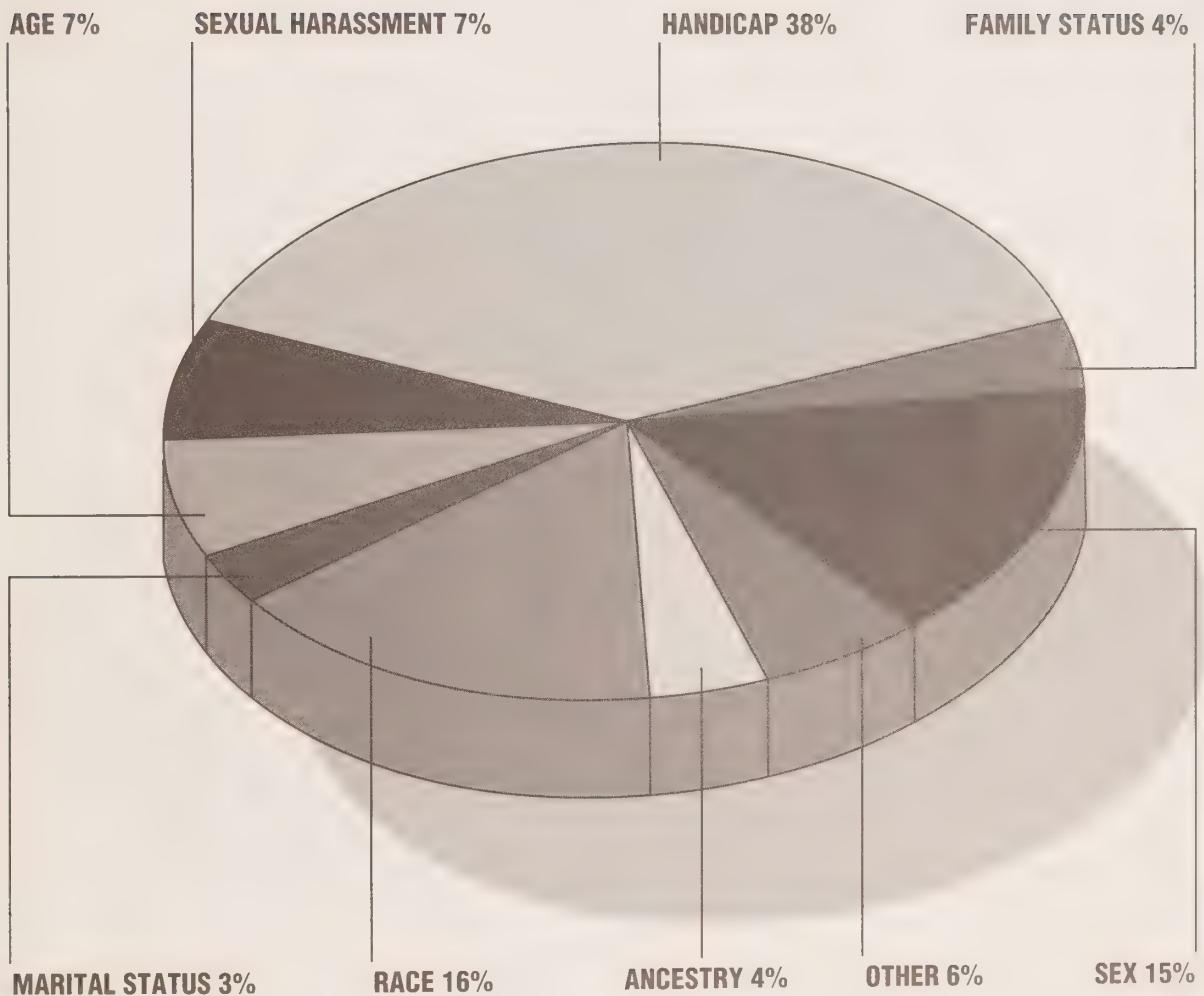
*Reduced activity by regional staff due to priority on caseload reduction

APPENDIX 1 - CHART 1

CASES CLOSED BY DISPOSITION



CASELOAD BY GROUNDS



APPENDIX 1 - CHART 3

CASELOAD BY AGE



STAFF OF THE ONTARIO HUMAN RIGHTS COMMISSION*

APPENDIX 2

CHIEF COMMISSIONER'S OFFICE

Cain, Wylie
Choudhury, Nisha
Dissanayake, Shanthi
Frazee, Catherine
Hoy, Peter
Locke, Sandra
Price, David
Smith, Lorraine

EXECUTIVE DIRECTOR'S OFFICE

Jim, Serena
Leigh, Woh-Peng
Lewis, Lesley
Stager, Bev.

COMMUNICATIONS & EDUCATION UNIT

Brown, Maureen
Dales, Daphne
Jolas, Huguette
Justason, Barbara
Leader, Leonard
Shaw, Ted
Shefman, Alan
Silberman, Toni
Wu, Bill

LEGAL UNIT

Lim, Helen
D'Silva, Alan
Davis, Lillian
Frawley, Mark
Ginsburg, Marilyn
Griffin, Tony
Hart, Mark
Joachim, Kay
Kermany, Mollie
McCloy, Chris
Overend, Naomi C.
Palacio, Roger
Pike, Cathryn

Rosen, Joanne
Sanson, Geraldine
Speranzini, Gary

CASE MANAGEMENT

(Under the direction of Mark Frawley,
Director of Legal Services and Director
responsible for Case Management)

Charsey, Anne
Frawley, Mark
Gaspar, Fern
Quigley, Christine
Ramanujam, Sita

REGIONAL SERVICES UNIT

Hurley, Helen
Schreiter, Marty

Reconsideration Unit

Barnes, Dorothy
Svegzda, Laima

Task Force

Bridgewater, Guy
Butler, Frank
Edwards, Neil
Ford, Maurice
Lee Rose
MacArthur, Mary
Massiah, Errol
McCullough, Wayne
Pangilinan, Francisco
Rainone, Lori
Samuel, Mary
Young, Robert

FINANCE & ADMINISTRATION UNIT

Bhawanie, Stella
Bacchus, Ingrid
Brophey, Brian
Ganesh, Albert
Lees, Deborah
McKee, Anne
Rodriguez, Marion
Tharrenos, Tia
Wong, Fiona

Human Resources

Colombe, Deborah
Leslie, Heather
Jackson, Marilyn
Jeffrey, Elizabeth
Pereira, Dennynson
Yatco, Jose

SYSTEMIC INVESTIGATION UNIT

Anderson, Patrick
Dahlin, Anita
Leibman, Ellen
Mahoney, Owen
Morell, Celine
Sangha, David

POLICY UNIT

Bernard, Calvin
Buckingham, Darlene
Carson, Bruce
Conroy, David
Fiddes, Judith
Laird, Katherine
Wacyk, Tanja

TORONTO CENTRAL

Barrett, Janet
Breiding, Bronwyn
Della-Nebbia, Nancy
Della-Vella, Rick
DeStefano, Rose
Downey, Terry
Doyle, Dee
Goh, Andre
Gupta, Nila
Isabella, Rosina
Leung, Andy
Markwick, Michael
McKenzie, Patrice
Obermuller, Diane
Pappas, Catherine
Satnarine, Tara

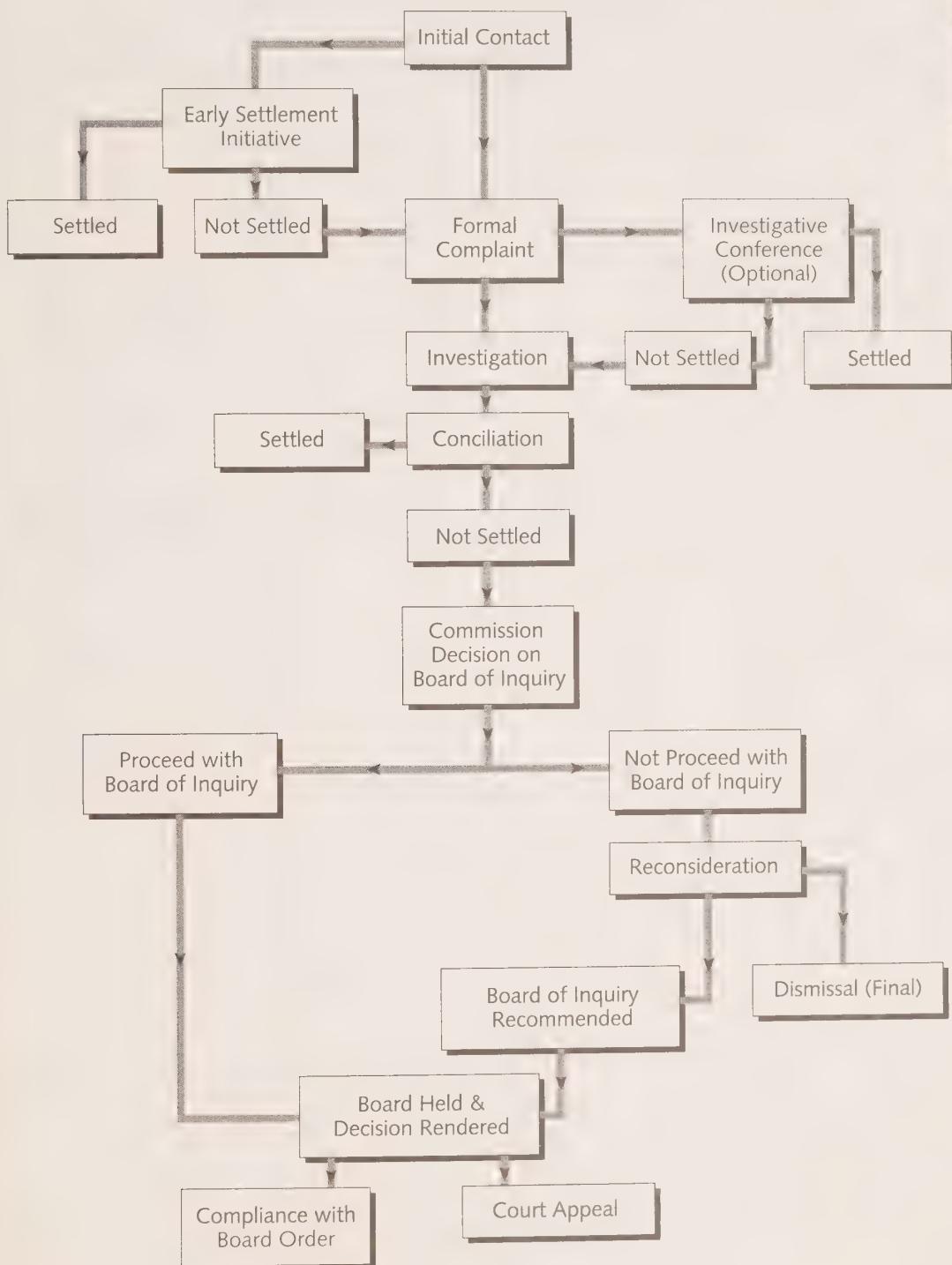
* includes contract and secondment personnel

Wells, Stanley
Williams, Ashworth
TORONTO EAST
Caffrey, Colm
Crowe, Sheila
Fernandes, Christina
Horsford, Jocelyn
Ioi, Rod
Jackson, Tara
Kelly, Douglas
Kerna, Gloria
Lloyd, Eva
Masellis, Vicki
Phillips, Lolita
Reilly, Bernice
Sahadeo, Harold
Seales, Robert
Thoo, Valerie
Wagg, Anita
Young, Tammy
TORONTO WEST
Chapman, Shirley
Cooper, Connie
Fernandes, Martha
Forghani, Angela
Fox, Anita
Gayle, Harold
Giesbrecht, Dennis
Lam, Marian
McPhee, Nola
Molloy, Peggy
Monck, Jennifer
Morrison, Glen
Sibblias, Geanine
Smith, Dolores
Soondarsingh, Vijay
Tayag, Cora

EASTERN REGION
Ottawa Region
Armstrong, Neil
Connolly, Anita
Delph, Esther
Kalimootoo, Roxanne
Laflamme, Sylvie
Millet, Rene
Richard, Maurice
Savage, George
Ushe-Robb, Thoko
Kingston
Cotton, Murray
Crowe, Tanis
Dain, Margaret
Perry, Janet
Polley, Joe
HAMILTON/NIAGARA REGION
Hamilton
Braun, Michele
Brick, Jackie
Gamble, Colina
Jostman, Susan
McCleary, Ottmar
MacKinnon, Michael
Lacourse, Diane
Ras, Theresa
Strojin, Alan
St. Catharines
Cargill-Sim, Fiona
Crawford, Larissa
Erickson, Suzanne
Strojin, Anny
NORTHERN REGION
Sudbury
Coutu, Gisele
Lapalme, Gilles
Serpell, Frances
Welch, Dan

Sault-Ste-Marie
Fratesi, Debra
Murray, Jacqueline
Taylor, Lisa
Zack-Caraballo, L.
Thunder Bay
Bava, Lina
Buffington, Margaret
Fraser-Homonick, K.
Timmins
Lanthier, Elise
Skinner, Diane
St. Onge, Joanne
Kenora
Wasacasse, Maureen
SOUTHWEST REGION
London
Ackroyd, Lynda
Burns, Walter
Frank, James
Howard, Mary Ann
Wisdom-Lumsden, M.
Kitchener
Barker, Sheridan
Cobb, Don
Mushega, Abbey
Wagner, Shari
Windsor
Carrick, Anne
Koushik, Aruna
MacKinnon, Sandra
McKinnon, Christopher
COMMISSIONERS
Ronson, Lou
Devins, Reva
Gill, Pam
Kishkon, Elizabeth
Lenkinski, Louis
Philpott, David
Porter, Jody

HUMAN RIGHTS COMPLAINTS PROCESS



A PLAIN LANGUAGE GUIDE TO MAKING A HUMAN RIGHTS COMPLAINT

THE INFORMAL SETTLEMENT

- Step 1** Try to write a description of how you have been discriminated against or harassed. Include who was involved and when the discrimination happened.
- Step 2** Call or write to the Human Rights Commission and give us the details of your discrimination.
- Step 3** We will contact the person or company you are complaining about and discuss the information that you have given to us. The person or company you are complaining about is called the respondent.
- Step 4** Our talking with the person you are complaining about can often settle the problem. If it does not, you can file a formal complaint.

THE FORMAL COMPLAINT

- Step 5** You meet with a human rights officer and fill out a form describing your complaint. The complaint is sent to the person(company) you are complaining about.
- Step 6** We study your complaint and what the respondent says about it. You and the person you are complaining about may come to a meeting with us and try to solve the problem.
- Step 7** If a meeting solves the problem, the settlement is put in writing and you and the person you are complaining about sign it. If a settlement is not reached, we will investigate your complaint.
- Step 8** We investigate your complaint fully by looking at any documents that apply to your case and talking with people who know about your situation. We have a meeting with you and the person you are complaining about, give the results of the investigation, and try to reach a settlement.
- Step 9** If you reach a settlement, the Commissioners may approve it. If you do not reach a settlement, the Commissioners make the final decision on your case. They might arrange for a Board of Inquiry to look into your complaint.
- Step 10** If you are unhappy with the decision of the Commissioners you can ask them to look at your case again. If you are unhappy with the decision of the Board of Inquiry, you can appeal it in court.

AREAS AND GROUNDS COVERED BY THE CODE

The **Human Rights Code, 1981**, provides that every person has a right to freedom from discrimination in the following areas:

- services, goods and facilities
- the occupancy of accommodation
- contracts
- employment
- membership in vocational associations and trade unions

on the grounds of:

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed
- sex
- sexual orientation
- handicap
- age
- marital status
- family status
- the receipt of public assistance
- record of offenses

HUMAN RIGHTS COMMISSION OFFICES

HEAD OFFICE

400 University Avenue
Toronto, Ontario
M7A 2R9
(416) 314-4500/ 314-
4600
TDD (416) 314-4535

TORONTO CENTRAL

595 Bay Street, 4the Floor
Toronto, Ontario
M5G 2C2
(416) 326-9511
TDD (416) 326-9669

TORONTO EAST

2500 Lawrence Avenue
East
2nd Floor
Scarborough, Ontario
M1P 2R7
(416) 750-3575
1-800-268-6585
TDD (416) 750-3302

TORONTO WEST

2 Robert Speck Parkway
Suite 310
Mississauga, Ontario
L4Z 1H8
(416) 273-7811
1-800-268-2808
TDD (416) 273-6648

SOUTHWEST REGION

London
355 Dufferin Avenue
Suite 601
London, Ontario
N6A 5K6
(519) 438-0076
1-800-268-8333
TDD (519) 438-4207

Kitchener

824 King Street West
4the Floor
Kitchener, Ontario
N2G 1G1
(519) 570-9622

Windsor

500 Ouellette Avenue
Suite 305
Windsor, Ontario
N9A 1B3
(519) 256-8278
1-800-265-5140
TDD (519) 256-4410

HAMILTON/NIAGARA REGION

Hamilton
119 King Street West
8the Floor
Hamilton, Ontario
L8N 3Z9
(416) 521-7870
1-800-668-9508
TDD (416) 546-8278

St. Catharines

1 St. Paul, Suite 603
St. Catharines, Ontario
L2R 7L4
(416) 684-7406
1-800-263-4916

EASTERN REGION

Ottawa
2197 Riverside Drive
Suite 301
Ottawa, Ontario
K1H 7X3
(613) 738-2801
1-800-661-0228
TDD (613) 232-3909

Kingston

80 Queen Street
Suite 202
Kingston, Ontario
K7K 6W7
(613) 548-6750
TDD (613) 267-5755

NORTHERN REGION

Sudbury

199 Larch Street
6the Floor
Sudbury, Ontario
L3E 5P9
(705) 675-4455
1-800-461-4000
TDD (705) 675-6392

Sault Ste. Marie

390 Bay Street
3rd Floor
Sault Ste. Marie, Ontario
P6A 1X2
(705) 942-8417
1-800-461-0551

Thunder Bay

28 North Cumberland,
Suite 403
Thunder Bay, Ontario
P7A 4K9
(807) 343-6003
1-800-465-8996

Timmins

210 Spruce Street South
Suite 103
Timmins, Ontario
P4M 2M5
(705) 268-2838
1-800-461-7863

Kenora

227 2nd Street South
3rd Floor
Kenora, Ontario
P9N 1G1
(807) 468-2866

LIST OF PUBLICATIONS

NAME OF PUBLICATION (all publications are bilingual)

1. Human Rights Code, 1981
2. Guide to the Human Rights Code
3. Employment Application Forms & Interviews
4. Human Rights in Employment
- 5a. Guidelines for Assessing Accommodation Requirements for Persons with Disabilities (brochure)
- 5b. Accommodation of Persons with Disabilities (pamphlet)
6. Human Rights and Sexual Harassment
7. OHRC Policy Statement on HIV/ AIDS Related Discrimination
8. Exceptions to the Equality Rights Provision of HR Code in the Workplace
- 9a. Policy on Racial Slurs & Harassment & Racial Jokes (brochure)
- 9b. Racial Slurs & Harrassment & Racial Jokes (pamphlet)
10. OHRC Policy Statement on Height and Weight Requirements
11. Annual Report
12. Policy on Driver's Licence as a Condition of Employment
14. Policy on Employ.-Related Medical Information
15. Declaration of Management Policy (poster)
16. Guidelines on Special Programs
17. If You Have a Human Rights Complaint
18. Know Your Rights Series:
 - Sexual Orientation and the HR Code (one page)
 - AIDS & AIDS-Related Illness and the HR Code (one page)
19. Human Rights in Ontario
20. Discrimination Because of Handicap
21. Guidelines for Internal Human Rights Complaint Resolution Procedures
22. Policy Statement with Respect to Exclusionary Scholarships

For all publication requests, please contact::

The Ontario Human Rights Commission
Communications and Education
400 University Avenue, 12th Floor
Toronto, Ontario M7A 2R9
Telephone: (416) 314-4526



ONTARIO HUMAN RIGHTS COMMISSION

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(aussi disponible en français)

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Letters of transmittal and greeting



OFFICE OF
THE LIEUTENANT GOVERNOR
QUEEN'S PARK
TORONTO, ONTARIO
M7A 1A1

TEL (416) 325-7780
FAX (416) 325-7787

July 29, 1992

Dear Ms. Fazee:

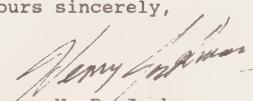
As representative of Her Majesty Queen Elizabeth II in the province of Ontario, I wish to extend congratulations to the Ontario Human Rights Commission as you celebrate your 30th anniversary.

Over the past 30 years the Commission has overseen the implementation of the Human Rights Code to ensure equal treatment in all levels of society. You are to be commended for your work to end discrimination based on such factors as race, sex and age.

May the next thirty years witness the elimination of discrimination and installation of justice and freedom for all citizens of this magnificent province.

With best wishes,

Yours sincerely,



Henry N. R. Jackman
Lieutenant Governor

Ms. Catherine Fazee
Chief Commissioner
Ontario Human Rights Commission
400 University Avenue, 12th Floor
Toronto, Ontario
M7A 2R9



The Premier
of Ontario

Le Premier ministre
de l'Ontario

Legislative Building
Queen's Park
Toronto, Ontario
M7A 1A1

Hôtel du gouvernement
Queen's Park
Toronto (Ontario)
M7A 1A1

I am pleased to extend my congratulations to the Ontario Human Rights Commission on the occasion of your 30th anniversary.

Since June 15, 1962, when the various anti-discrimination legislations that existed became consolidated under the umbrella of the Ontario Human Rights Commission, your organization has worked to ensure that the worth and dignity of our citizens be recognized. That task has not been easy, but to its credit the Commission has remained committed to its mandate.

This commitment is even more imperative now as this province prepares to meet the many challenges that will arise in the future. With uncertainty in many areas of the economy, changing demographic patterns and adjustments in labour legislation, the Commission will face many more complex challenges in ensuring that all our citizens are provided with equal rights and opportunities.

I wish to thank the staff of the Commission, past and present, and those who serve or have served as Commissioners, for their hard work in helping to keep Ontario in the vanguard of human rights in North America. As you recognize, the ideal is your obsolescence. However, it will be a small price to pay for a province in which we have a climate of understanding and mutual respect.

Bob Rae



Minister
Ministre

Ministry of
Citizenship

Ministère des
Affaires civiques

5th Floor
77 Bloor Street West
Toronto, Ontario
M7A 2R9
(416) 965-6202

5e étage
77 ouest, rue Bloor
Toronto, Ontario
M7A 2R9
(416) 965-6202

Dear Friends,

As the Ontario Minister of Citizenship, it is my pleasure to extend my congratulations to the Ontario Human Rights Commission on the occasion of its 30th anniversary.

In 1962, when the Commission was created to administer the Ontario Human Rights Code, it became a pioneer. It was the first human rights commission of any kind in Canada.

The Commission has grown a great deal over the years, and its responsibilities have become increasingly complex. However, it continues to investigate and to help resolve allegations of discrimination, and to promote harmony in the province of Ontario, which are challenging tasks in a population of ten million people.

I salute the Ontario Human Rights Commission for its 30 years of service to the people of Ontario.

My very best wishes for the future.

Sincerely,


Elaine Ziemba
Minister of Citizenship
With Responsibility for Human Rights,
Disability Issues, Seniors' Issues and
Race Relations



Ontario
Human Rights
Commission
Commission
ontarienne des
droits de la personne

400 University Avenue
Toronto, Ontario
M7A 2R9

400, avenue University
Toronto (Ontario)
M7A 2R9

(416) 314-4500

August 31, 1992

The Honourable Elaine Ziemb
Minister of Citizenship with responsibility
for Human Rights, Disability Issues, Seniors
Issues and Race Relations
77 Bloor Street West
5th Floor
Toronto, Ontario
M7A 2R9

Dear Mrs. Ziemb:

Pursuant to Section 31(1) of the **Ontario Human Rights Code, 1981**, it is my pleasure
to provide to you the Annual Report of the Ontario Human Rights Commission for the
fiscal year 1991-1992 for submission to the Legislative Assembly of Ontario.

This report reflects the activities of the Commission to March 31, 1992.

Yours sincerely,

Catherine Frazee

Catherine Frazee
Chief Commissioner



Greetings

Chief Commissioner's remarks

It is with pride that I look back at the breathtaking developments in the Commission over the last year and, indeed, over the past 30 years. Ours is an organization that was born in the crucible of the struggle for equity in Ontario, nurtured on the milk of the vision of those who refused to lose sight of the goal and matured through the work of dedicated staff and leaders.



Over the last 30 years, the Ontario Human Rights Commission has distinguished itself through its passion for human dignity, social pluralism and justice. Our work is never easy, but we have emerged from the storms we have faced as a stronger, more mature organization with an even greater empathy for those we serve.

It was a privilege for me to have served for three years as head of this great organization. I share the anticipation and excitement of those at the Commission who are even now preparing to meet the challenges

of the future, a future that will demand no less of us in courage, foresight and unswerving commitment to bringing equity to all.

— Catherine Frazee

A word from the Executive Director

As an employer, the Commission is probably a microcosm of society. Our major asset, however, is the above-average concentration of people who are totally committed to bringing about justice in our society.



Our aim is to be an organization where staff at all levels understand their jobs and are given the tools to do them, where good performance is recognized and where management accountability is clearly communicated and fulfilled.

— Lesley Lewis

Commissioners' profiles



Catherine Fazee

Chief Commissioner

Catherine Fazee was appointed Chief Commissioner of the Ontario Human Rights Commission in September 1989, after serving four years as Commissioner. Prior to her appointment, she served as Co-ordination Officer for Amnesty International, where she planned human rights campaign activities, consulted on political and communications strategies and developed the expertise of volunteers in international human rights advocacy.

Ms. Fazee received her post-secondary education at Carleton University in Ottawa and at Dalhousie Law School in Nova Scotia. She is the recipient of several academic awards and scholarships. She has lectured and written extensively on human rights issues in Canada and abroad.

Fran Endicott

Vice Chair

Fran Endicott is an independent consultant who specializes in training and development in issues related to sexual harassment, systemic discrimination and anti-racism. She was a Toronto Board of Education Trustee from 1980 to 1988, during which she chaired the Board's Race Relations and

Affirmative Action Review committees. She was also chair of the Status of Women's Committee and a member of the Standing Committee on Personnel and Organization. She has written a number of reports and other publications. She has a degree in history from the University of the West Indies.

R. Lou Ronson

Vice Chair

Lou Ronson is a Vice President of Bnai Brith International in Washington, D.C.

and a former Commissioner of the Anti-Defamation League in the United States. He has served as President of Bnai Brith Canada, as well as Chair of its League for Human Rights. Mr. Ronson is an Honorary Vice-President of the Toronto Jewish Community Centre, serves on the Ontario Regional Executive Board of the Canadian Jewish Congress and as a Director of Mount Sinai Hospital. He is the founder of the R. Lou Ronson Research Institute on Anti-Semitism, administered by the League for Human Rights of the Bnai Brith Canada. He was appointed to the





Commission in 1985 and served as its Vice-Chair until the end of his term in September 1991.

Reva E. Devins

Reva Devins, a lawyer, was called to the Bar of Ontario in 1985. She has law degrees from Osgoode Hall (LL.B) and Harvard University (LL.M). Prior to her appointment to the Ontario Human Rights Commission in 1987, she worked in private legal practice, with the Canadian Human Rights Commission and as a Law Clerk for the Supreme Court of Canada.

During the past five years, Ms. Devins has been an active participant in several committees and panels of the Ontario Human Rights Commission. She most recently served as the Commission's official liaison with the Ontario Human Rights Code Review Task Force, established by the government to make recommendations on human rights reform.

Pam K. Gill

Pam Gill was appointed to the Commission in May 1989. She draws upon extensive experience in social work with the federal government's New Horizon grant program and as Executive Director of the Rich-

mond Multicultural Concerns Society. She also served as Manager of the Counselling Services Team at the South Asian Social Service Organization. Ms. Gill has social work and science degrees from the University of British Columbia and is fluent in four languages. Her term ended in February 1992.

Elizabeth Kishkon

Elizabeth Kishkon was appointed to the Commission in March 1986. A resident of Windsor, she began her professional career as a political commentator and interview host for the CBC in 1971. She has served as board member of several social service agencies and was Windsor's first female Mayor. She is an active participant in community projects and municipal affairs. She currently works as a freelance broadcaster. Her term as Commissioner ended in February 1992.

Louis Lenkinski

Louis Lenkinski was for several years member and business representative of the Upholsterers' International Union. He has held the positions of Project Director and Executive Secretary to the Labour Council of Metropolitan Toronto. In 1975, he became Executive Assistant to the Ontario Federation of Labour and in 1984 was appointed a part-time member of the Ontario Labour Relations Board. Mr. Lenkinski joined the Commission in July 1987. He is a member of the Canadian Jewish Congress.

Carmen Paquette

Carmen Paquette's expertise includes such areas as women's issues, minority rights, social and economic issues, human resource development and community development. She is currently a partner in a workers' cooperative that specializes in organizational development, research and training.

She worked for several years as a consultant to francophone and anglophone women's groups. She is a member of gay and lesbian organizations involved in lobbying, community organizing and education against homophobia at the local, provincial and national levels.

Gaetane Pharand

Gaetane Pharand was trained in business management and was recently employed as Events Coordinator with L'Association des professeurs des Colleges at Laurentian University and as communications officer at Radio Canada. She has been active in community service since 1988 and has served as vice-president of St. Eugene's Parish Council.

David Philpott

David Philpott, appointed to the Commission in March 1989, brought with him extensive private-sector experience. He studied at the University of Toronto School of Architecture and has worked in contracting, finance and investment, commercial real estate development and consulting. At present, Mr. Philpott operates his own company and holds directorships in other organizations, including the Canadian Opera Company. He has written a popular book, *Dangerous Waters*. His appointment to the Commission ended in February 1992.

Jodey Porter

Jodey Porter served with the Canadian Diabetes Association as Executive Director for eight years and also with the Ontario Council on Diabetes. She was appointed to the Commission in April 1989 and served until her resignation in April 1992. Ms. Porter is now Assistant Deputy Minister of the Ministry of Health's Strategies Group. She is a native of London, Ontario.

St. Clair Wharton

St. Clair Wharton is president of Local 2858 of the United Steelworkers of America, serving as vice-president from 1983-1985. He has served on a variety of human rights committees within the union. He is founding member of the Parkdale Action Committee against Racism.

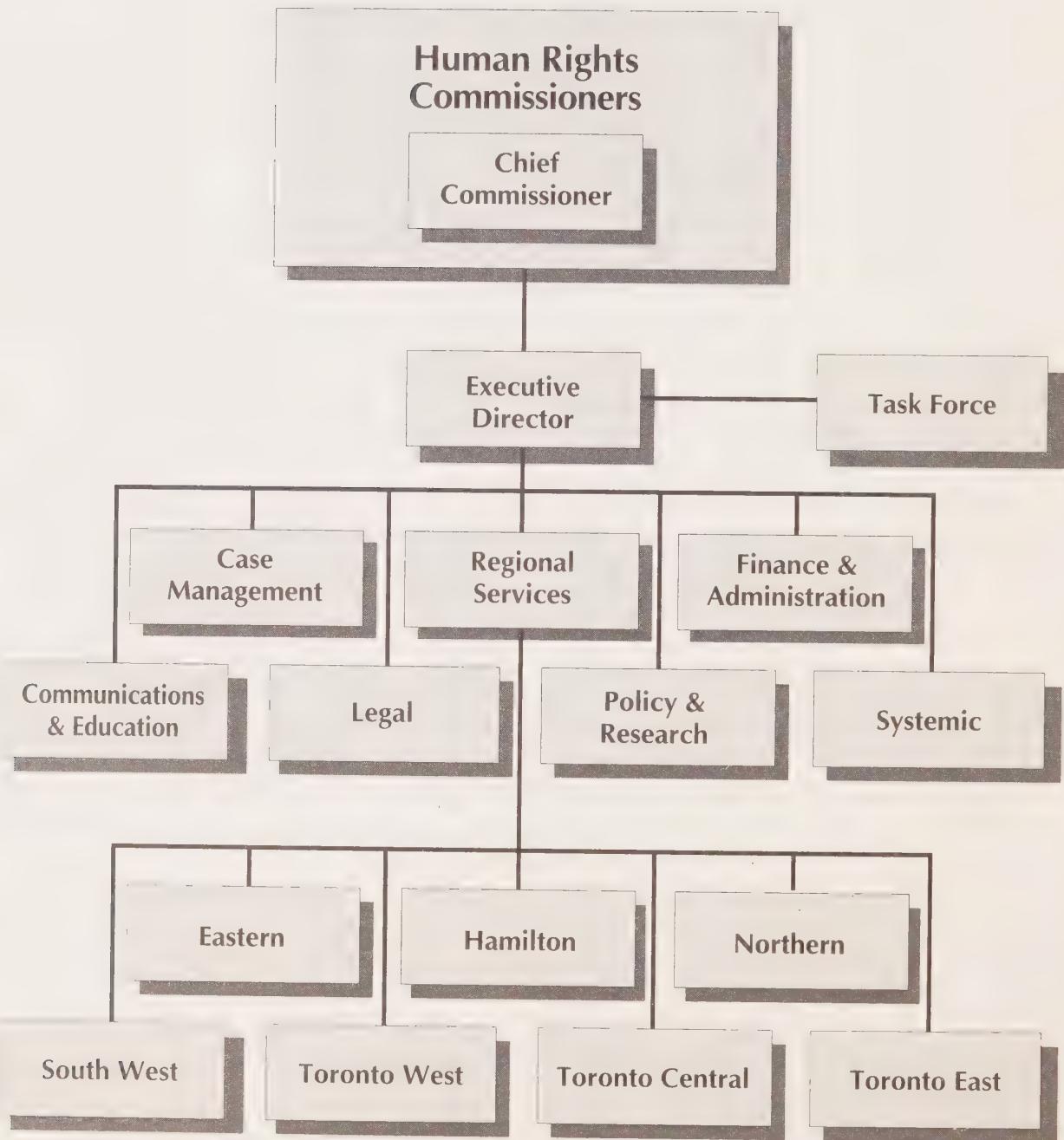
Jerry M. Woods

Jerry Woods is national representative of the Canadian Paperworkers' Union. He has been an active trade unionist since 1962. He is past president of the Fort Francis Metis and Non-Status Indian Association and has served as panelist at a number of human rights conferences. He was appointed to the Commission in June 1991 and served until his resignation in March 1992. ■





Organizational Chart



The Commission last year



The Commission's seven administrative units work individually and as a group to develop and implement various aspects of the organization's work. For example, a training initiative may involve the Finance and Administration Unit's human resources personnel in the selection of candidates, staff from the Legal and other units as presenters, and members of the Communications & Education Unit in writing material and organizing the event.

Case management

The Commission last year handled 92,000 inquiries from the public and made 25,000 referrals to other agencies. It opened 2,535 cases and closed 3,112. The average number of cases closed per officer was 42, compared with 29 in 1990-1991.

Last year the Case Management Plan entered its second year. The Plan is designed

to reduce the Commission's caseload and to shorten the time it takes to resolve cases. Main elements of the Plan are to:

- Assign each officer only 10 cases at a time, to increase efficiency;
- Give priority to urgent cases, while handling others in order of their original filing;
- Utilize the procedural manual in case handling to improve consistency; and
- Give regional managers authority to review and close certain cases.

Systemic case resolution

The Commission investigates discrimination in two ways: The vast majority of cases are individual complaints. Through its Systemic Investigations Unit, however, the Commission also initiates investigations of the practices and inner systems of organizations.

Significant systemic cases last year included discussions with the Ministry of the Attorney General and the Ministry of Government Services about steps that should be taken to enable persons with disabilities to gain better access to courthouse facilities. Letters of understanding were ex-



Greater computerization of tasks contributed to improved efficiency and productivity during 1991-91. Shown are two Task Force employees, Mary Louise Robertson (left) and Elizabeth Rolfe.



changed between the Commission and the Ministries on a plan of action. Key points of this plan are to:

- Add a central 800 telephone number for information on making alternate arrangements if a courthouse is inaccessible;
- Provide sensitivity training on disability issues to Ministry of the Attorney General staff, the judiciary, Crown Attorneys, defence bar, Legal Aid and law enforcement agencies; and
- Renovate court facilities and construct barrier-free courthouses.

The Commission concluded wide-ranging settlements with two Toronto-based employment agencies, T.E.S. Contract Services and Ian Martin Limited. In 1990 the Commission launched a systemic investigation into the agencies' practices, following allegations that they discriminated against groups protected under the *Code* in selecting candidates for assignments.

The settlements, approved by the Commission last year, called for extensive employment equity programs and dealt with how agencies should handle discriminatory requests from employers.

Finally, the Commission launched a complaint against Trent University to improve physical access to its facilities for students with disabilities.

Commissioner & staff training

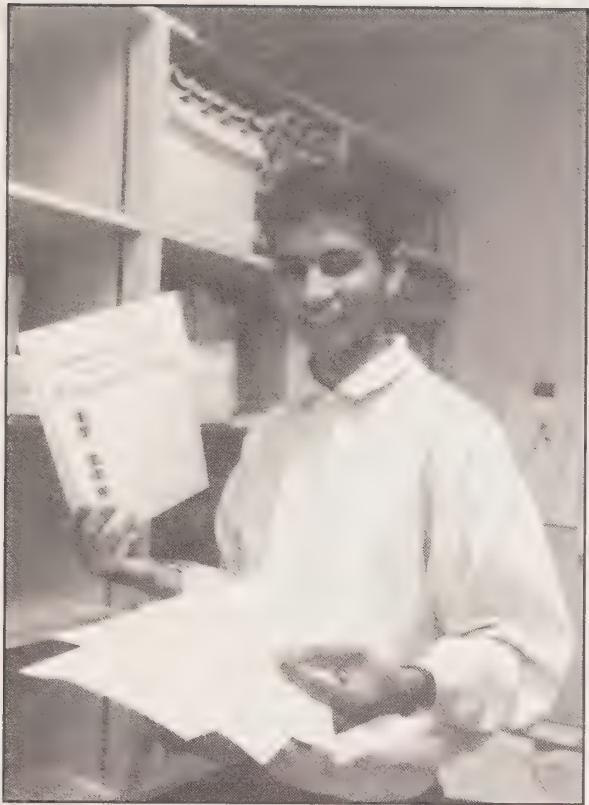
The Commission provided training to Commissioners and staff in a number of areas, including *Code*-related issues, clerical skills, customer service, computer operation, labour relations, financial management, AIDS and AIDS-related illnesses, orientation to the Commission and its activities, investigative skills, and career planning (for designated groups).

External submissions

The Commission submitted proposals to:

- The Ontario Select Committee on Confederation, recommending that social and economic rights be included in the Charter of Rights and Freedoms;
- The Law Reform Commission on the human rights implications of mandatory AIDS/HIV testing;
- The Canadian Association of Statutory Human Rights Agencies (CASHRA), urging a stronger role for the future of CASHRA;
- Government hearings on the creation of employment equity legislation;
- The Royal Commission on National Passenger Transportation.

Work was also initiated or continued on the Commission's submission to the Ontario Human Rights Code Review Task Force, appointed by the provincial government to make recommendations on changes needed in the way human rights are enforced in Ontario.



The demand for Commission publications continued to increase. During 1991-92, the Commission distributed almost 85,000 pieces across Ontario. Shown here is Publications Clerk Imtiaz Ahmad.



Public education, community liaison & consultations

The Commission actively participated in International Human Rights Day activities, such as:

- Commissioners addressed Citizenship Courts across the province;
- The Chief Commissioner presented a framed poster to the Honourable Gerry Wiener and the Honourable Elaine Ziembra at the League for Human Rights Media Human Rights Awards dinner; and
- The Commission sent letters to politicians at all levels of government, urging them to recognize Human Rights Day.

Publications:

- *Human Rights in Ontario*, a plain-language brochure, and
- *Policy Statement with Respect to Exclusionary Scholarships*, a technical paper.

Internal administration

Major initiatives included:

- Development of a performance management system with emphasis on managing a diverse workforce;
- Promotion of health and safety through creation of new guidelines, safety and security procedures, installation of safety systems and training;
- Production of a policies and procedures manual on human resources;
- Agreement with the union to implement a flex-time policy; and
- Co-op work programs.

In other public education activities, the Commission hosted a series of briefing sessions with community representatives to inform them of changes in its case management system.

Staff participated in conferences and workshops on such topics as human rights in the workplace, sexual harassment and violence against women. Audiences included the Canadian Bar Association, managers and counsellors at Algonquin College in



Ottawa, Loyalist College, high school students and the Hamilton Psychiatric Hospital.

The Commission further:

- Supported Lesbian and Gay Pride Day and maintained liaison with the Coalition for Lesbian and Gay Rights in Ontario (C.L.G.R.O.);
- Discussed with the Ontario Native Council on Justice ways to make the Commission's services more relevant to the First Nations;
- Participated in an Inter-Ministerial Committee developing strategies for making government policies and programs more sensitive to the religious needs of Sikhs; and
- Organized community outreach meetings between Commissioners and representatives of the Sioux Lookout community. ■

The Units



Office of the Chief Commissioner

Chief Commissioner: Catherine Frazee

The six staff members in the Chief Commissioners Office provide support to the Chief Commissioner, Vice-Chair and Commissioners in all areas, including administration, public engagements, intergovernmental communications, research and policy development. Staff also function as the liaison between the Chief Commissioner, Commissioners and other agency personnel on key issues as they affect the Commission.

Office of the Executive Director

Executive Director: Lesley Lewis

The Office of the Executive Director provides corporate leadership and direction to the Commission and manages daily operations and performance of the Commission as a whole. It implements the Employment Equity Program and plans, designs and develops strategies to improve the workings of the Commission.

Case Management

Director: Anita Dahlin

The Case Management Unit maintains accurate and up-to-date information on the status of cases. It tracks and monitors the processing of cases, provides policy direction on case management and supervises the implementation of the Case Management Plan.

Communications & Education

Director: Alan Shefman

The Communications and Education Unit coordinates *Code*-related training programs; develops and maintains the Commission's public profile through media and other communications devices; develops and publishes the Commission's publications; coordinates special programs and events for the Commission, and conducts public education activities to provide information to the public about the *Code* and the Commission.

Finance & Administration

Director: Albert Ganesh

The Finance and Administration Unit develops financial and administrative policies; provides financial, administrative and human resources support, and is responsible for all aspects of the Commission's computer and other information technology.



Legal Services

Director: **Mark Frawley**

The Legal Services Unit provides legal support and advice to the Commission in all areas of its work. It prepares legal opinions on complaints, settlements and matters related to judicial reviews and appeals. It represents the Commission before Boards of Inquiry and other judicial bodies as well as responds to enquiries from the legal community and the public.

Policy & Research

Acting Director: **Calvin Bernard**

The Policy and Research Unit develops policies and guidelines to interpret the provisions of the *Code* and suggest how the *Code* can be applied to the areas over which it has jurisdiction. The documents are used by the public and by Commission staff in dealing with cases. The unit also conducts specialized research for *ad hoc* Commission projects.

Regional Services

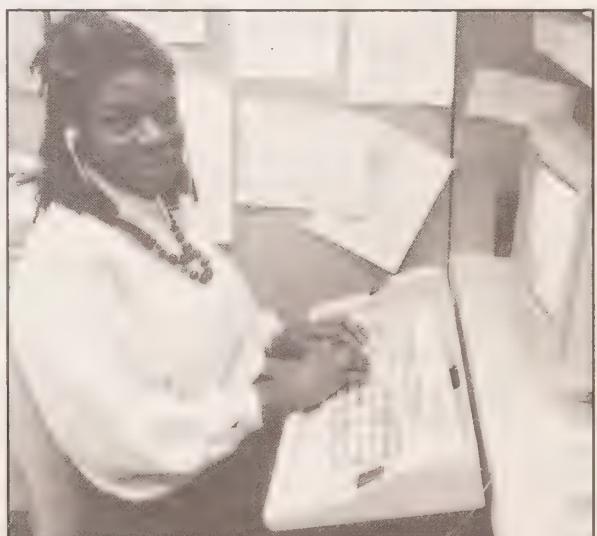
Director: **Marty Schreiter**

The Regional Services Unit is responsible for the administration of the Commission's 15 regional offices. Staff at the regional level receive and investigate complaints, as well as provide training, public education and advice to their local communities.

Systemic Investigations

Acting Director: **Neil Edwards**

The Systemic Investigations Unit initiates investigations into discrimination present in the inner workings or systems of organizations; provides expertise to regional offices on aspects of cases that have a systemic discrimination component, and takes leadership in handling requests for the Commission to review and authorize private- and public-sector equity programs. ■



During 1991-92, the number of Boards of Inquiries more than doubled. Shown here, Commission employee Lillian Davis transcribes dictation.

Dealing with the caseload



By the summer of 1990, there was growing concern at the Commission over the dramatic increase in its caseload to more than 2,600 cases. The increase was blamed partly on internal problems and partly on factors such as increased awareness of the Commission's services. Amendments to the *Code* provided more protection to more people and a broader interpretation of the *Code*.

Moreover, there was a growing awareness that the administrative systems for processing cases were out of date and increasingly inefficient as the number of complaints to the Commission continued to soar.

Spurred by intensified pressure from complainants and advocacy groups demanding change, the Commission set to work on new strategies to bring about a more speedy resolution to cases.

A major component of the new strategies was a Case Management Plan. Under the plan, the Commission gave officers more training, set new standards for productivity and restricted case loads to no more

than 10 cases at a time. The Commission formed a 10-person task force to handle 400 of the oldest cases, implemented a new procedural manual to standardize operations across the province and placed greater emphasis on settling cases informally.

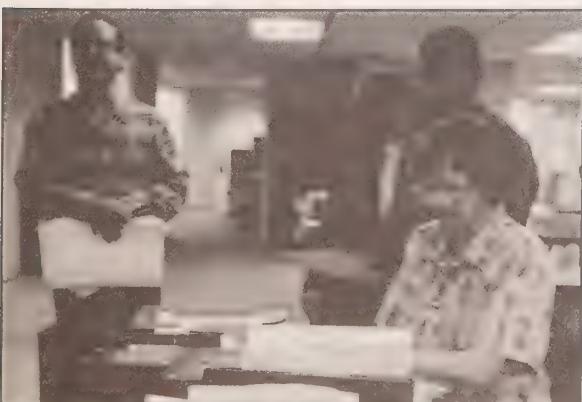
Over the next six months, the caseload dropped by 10 percent. For the first time in 15 years, the Commission closed more cases than it opened.

The Case Management Plan in action

By 1991, its second year in effect, the Case Management Plan had become a critical factor in the Commission's work.

The Plan is based on the premise that staff performance is maximized when adequate training and support as well as clear expectations of accountability are provided. The end result would then be a dramatic reduction in caseload.

This has turned out to be an ambitious expectation, since the more effective the Commission becomes, the more people turn to it for help in fighting discrimination and the more demands are placed on its staff. The publicity following the creation of the task force led to an almost immedi-



A beefed-up Task Force chipped away at the Commission's backlog of cases.



ate increase in the number of complaints to the Commission. (See *statistics in the Appendix*.)

The Code itself requires the Commission to follow certain procedures that take time.

The direct task of handling complaints falls to the staff of the Regional Services Unit. Other Units, however, focused their work on providing substantial support for case reduction. For example, the Legal Unit assigned lawyers with responsibilities for each region, so that officers could have ready access to legal advice in their day-to-day handling of cases. Legal staff also gave presentations at staff training seminars.

The Systemic Investigations Unit advised officers on the possible systemic components of cases they were handling. The Policy and Research Unit played a lead role in developing the framework for the process of preparing cases to hand over to the task force. The Communications and Education Unit organized training for staff and Commissioners.

The Commission boosted staff training through seminars on topics such as the principles of equality, the structure of the *Code* and the significance of precedent-setting decisions. Workshops were held with Commissioners on administrative law and

on their obligations as statutory decision makers.

Between March and December of 1991, the Commission closed 2,151 cases, an 86 percent increase over the same period the previous year. The average number of cases closed by each officer rose from 29 to 42.

As a reflection of the increased number of cases before it, over the course of the year, the Commission doubled its requests to the Minister of Citizenship to appoint Boards of Inquiry.

Under the Case Management Plan, once officers are assigned their allotted 10 cases, a case coordinator monitors all other cases to ensure that they are assigned in order of the date on which the complaint was filed.

By the end of last year, there were only 217 unassigned cases in the Commission, all but eight of which were less than nine months old. (Unassigned cases are screened and assessed for priority handling criteria. A case coordinator maintains them and keeps parties informed about the status of the case.)

These cases were monitored closely to ensure that they were not unduly or unnecessarily delayed. The vast majority of cases (48 percent) were closed as a result of Early Settlement Initiatives (ESIs). This means that they were resolved informally within two months of the complainants' approaching the Commission. The remainder of cases were either settled, withdrawn, denied a hearing by the Commission or re-



ferred to Boards of Inquiry. The Commission closed a total of 3,112 cases.

A new task force

Despite the Commission's performance under the Case Management Plan, however, pressure continued to grow, both within and outside the Commission to reduce the caseload even more quickly.

In September 1991, the Ontario government announced a one-time allocation of \$6 million to the Commission to help dispose of its caseload. With these new funds, the Commission expanded the existing task force from 10 to 52 persons and gave it a one-year mandate: Deal with all cases more than six months old and not currently under investigation — approximately 1,000 of the organization's toughest cases.

Freed from the weight of cases that seemed to grow older and more complex by the minute, human rights officers were now able to concentrate on new cases and cases up to six months old.

In the two months following the announcement of funding, the Commission undertook the massive task of creating the new group and setting it in place to accomplish its mandate within one year.

It was an extraordinary effort. The Commission:

- sent out an appeal across government for staff with investigative experience,

- hired most of the 52-member task force,
- provided extensive training to the new staff,
- acquired office space, and
- began the job of analyzing and resolving the assigned cases by November 1992.

On several fronts, the group faced pressure to accomplish its given task: Government had high expectations because of its financial investment, while the public saw the group's creation as a guarantee that cases would be resolved speedily, within the expected time period.

The message to the public was that the Commission was open for business.

On the other hand, there was the challenge of the group's coming together to form an effective team. Although the core staff were drawn from the Commission, other members of the group were from backgrounds as varied as the Workers' Compensation Board, the Ministry of the Solicitor General and the Office of the Ombudsman.

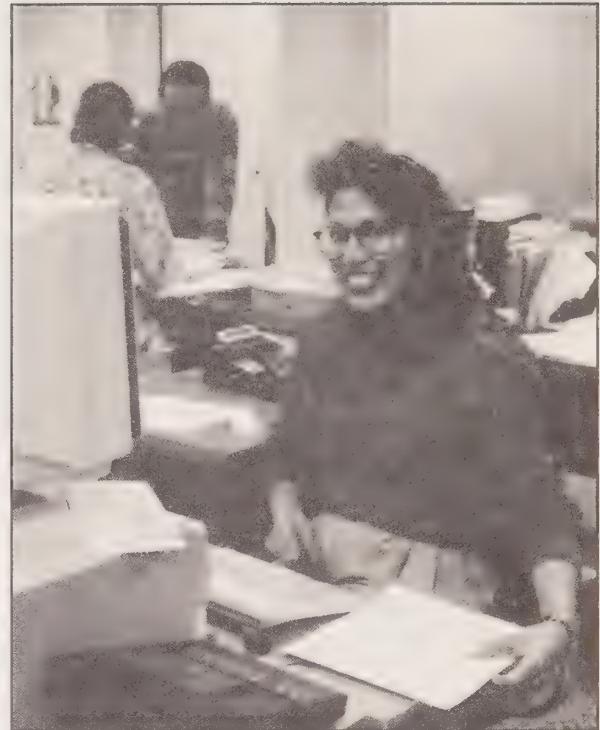
First indications were that the group would prove itself equal to the task set out before it. By the end of March 1992, it had closed 146 cases, its target for the first four months of operation.



The Task Force pioneered new approaches to case management. Shown at right is employee Lila Singh.

The Commission enjoyed other advantages from the work of the Task Force. The group acted as a testing ground for several new approaches to case management. For example, teams of officers conducted interviews in situations where there were large numbers of witnesses or where the complaint had occurred out of town. The office was fully computerized, eliminating much of the time-consuming work that had traditionally slowed down the processing of cases. An organizational health committee provided staff with feedback and support.

At the beginning of the task force's work, all cases were put through a "triage" proc-



ess, conducted by a committee of staff from across the Commission. Cases were screened to highlight issues with particular legal, systemic and policy implications. This information was helpful in streamlining cases and in providing necessary support and advice to investigating officers. ■

Introduction to cases



The cases discussed in this section are among those that the Commission referred to Boards of Inquiry or were settled and publicized because of their educational value. The Commission will only publicize settlements with the permission of the complainants.

Boards of Inquiry are appointed by the Minister of Citizenship. The Commission asks the Minister to appoint a Board when it believes, based on its investigation, that discrimination has taken place but the parties cannot reach a settlement.

Boards of Inquiry are open to the public. A Board of Inquiry is governed by administrative law. (It is not, for example, a criminal proceeding.)

A decision by a Board of Inquiry is legal and binding to the parties. A precedent set by a Board can be used to support evidence at other Board hearings.

A decision by a Board of Inquiry can be appealed through the judicial system from the Ontario Court of Justice to the Supreme Court of Canada. ■

OHRC Terms

A *complaint* is an **allegation** that the *Ontario Human Rights Code* has been violated. Details of the allegation are submitted to the Commission in a complaint form that is formally processed by the Commission.

An *early settlement initiative* or *E.S.I.* is an allegation of *Code* violation that is resolved by the parties with Commission assistance or withdrawn by the complainant before a form is filled out or formal processing begins.

Both complaints and early settlement initiatives are known as *cases*.

A **settlement** is an agreement between the parties of a complaint to resolve the complaint under terms to which they all consent. Settlements are considered confidential. ■



List of cases by grounds

*Board of Inquiry & Appeals decisions
and selected settlements*

Because of restrictions under the Freedom of Information Act and the Protection of Privacy Act, the Commission cannot publish settlements. However, with the consent of the complainants, it will issue release to the news media on settlements of particular educational value.

Age

Albert Large v. Corporation of the City of Stratford et. al.

Dominion Management et al. v. Mary Velenosi, the Ontario Human Rights Commission and H.A. Hubbard

Creed

Office and Professional Employees International Union, Local 267 v. Domtar Inc. and the Ontario Human Rights Commission

Family status

Dudnik v. York Condominium Corp. No. 216 (No. 2)

Peterson v. Anderson et al.

Handicap (disability)

Gary Thornton v. Clarendon Foundation et al. (Settlement)

Rapson v. Stemms Restaurant Ltd.

Jerome v. De Marco

Douglas Bonner v. Her Majesty the Queen in Right of Ontario and the Ministry of Health, Insurance Branch

Gillies v. Avis Rent-A-Car (Settlement)

Charlene Marie Jackson v. The Leeds and Grenville County Board of Education and Ray Little (Settlement)

Marital status

Kelly Parks v. Christian Horizons et al.

Sandra Garrod v. Rhema Christian School et al.

Race, colour, ancestry, place of origin or ethnic origin*

Johnson v. Corporation of the City of Hamilton

Gaba v. Lincoln County Humane Society

Ruth Kidane v. Immigrant Womens Health Centre (Settlement)

The National Dental Examining Board of Canada v. The Ontario Human Rights Commission, Dr. Jennifer Footman et al.

Sex (gender)

James Babcock v. Para-Med Health Services Inc. (Settlement)

Irwin v. Oshawa Public Utilities Commission et al. (Settlement)

Emrick Plastics Division of Windsor Mold Inc. and Kenneth Brownell v. Ontario Human Rights Commission and Mira Heincke

Guthro v. Westinghouse Canada Inc.

Sherry Middleton v. 491465 Ontario Ltd. (carrying on business as Cannonball Restaurant)

Sexual harassment

Adair v. K.B. Home Insulation (Settlement)

Laura Waroway v. Joan and Brians Upholster-

* Cases under these grounds are grouped together, because most complaints in these areas cite some or all of these grounds. Other grounds covered by the Code include sexual orientation, citizenship, record of offenses and receipt of public assistance.

Areas and grounds covered by the Ontario Human Rights Code



The Ontario Human Rights Code prohibits discrimination on the basis of:

- race
- ancestry
- place of origin
- colour
- citizenship
- ethnic origin
- creed
- sex (gender)
- sexual orientation
- handicap
- age
- marital status
- family status
- receipt of public assistance
- record of offences ■

It is against the *Ontario Human Rights Code* to discriminate in the areas of:

- services, goods and facilities
- occupancy of accommodation
- contracts
- employment
- membership in vocational associations and trade unions ■



The cases

Age

The Code provides protection against discrimination on the basis of age. (The only limit to this protection is in the area of employment, where protection from age discrimination is provided only to persons over age 18 and under age 65.)

The issue of mandatory retirement was central to the case of *Albert Large v. the City of Stratford et. al.* A Board of Inquiry rejected a bid by the Stratford Board of Police Commissioners to retire Mr. Large at age 60 in accordance with its agreement with the Police Association.

Mr. Large elected to work to age 65 but was forced into early retirement.

The Board last year ordered the respondents to pay Mr. Large close to \$300,000 in lost income, pension and benefits. The Board held that the employer had failed to establish that its mandatory retirement policy was reasonable, *bona fide* and imposed through concerns about the complainant being able to perform his job adequately. (The Board of Inquiry decision is being appealed in the Ontario Court of Justice).

A Board of Inquiry dismissed a complaint by Robert Broadley, who alleged that

Stelco and the United Autoworkers Union discriminated against him by refusing him an extended vacation package given to older workers.

The Board ruled that this program, designed for workers 61 years and older, was established as a "special program" permitted by the *Code* [Section 13(1)] to relieve hardships on older workers as they made the transition into retirement.

Would-be tenant not 'old' enough

The Commission is appealing a decision by the Ontario Court of Justice that gave a Hamilton landlord the right to discriminate by favouring older tenants.



The Code provides protection to workers up to age 65. (Photo courtesy of the Ontario Ministry of Labour)

A Board of Inquiry had ruled that Dominion Management discriminated against Mary Velenosi by refusing to rent an apartment to her.

According to the Court, there was insufficient evidence before the Board of Inquiry for it to conclude that age was a factor in Ms. Velenosi's being refused the apartment. The Court ruled further that the *Code* did not prohibit a landlord from having a preference for older people or from administering applications for apartments in a way "calculated to result in exclusion of persons not being identified as "older people." ■

Creed

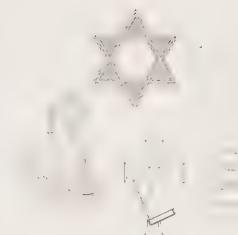
Last year, Ontario's religious diversity came into sharp focus with a ruling by the Grievance Board of Ontario, requiring the Ontario government to pay its workers for the days they take off to celebrate non-Christian holidays.

The Government responded by agreeing to give two paid days of religious holidays to members of an approved list of religions. (The Government will consult with religious leaders to develop a list of holidays requiring absence from work.)

The Grievance Board's decision was based on the principles of the *Code*, which require employers to accommodate the needs of groups under the *Code* short of undue hardship.

Turf war

In a precedent-setting case in 1991, the Ontario Court of Justice affirmed a Board of Inquiry decision that held a union and an employer jointly responsible for providing accommodation. Both were equally liable to the complainant for lost wages, because they had failed to accommodate the employee's religious requirements.



The Board of Inquiry had ordered Local 267 of the Office and Professional Employees International and Domtar Inc. to pay Irene Gohm \$74,000 in damages after Domtar fired Ms. Gohm when she refused to work Saturdays because of her religion. Ms. Gohm is a member of the Seventh Day Adventist church, which regards Saturday as its Sabbath.

Domtar had argued before the Board that even though Ms. Gohm was prepared to work on Sundays at regular pay, this would have violated the company's collective agreement with the union, which required that the overtime pay rate would apply on Sundays.

The Ontario Court of Justice ruled that both the union and the employer were parties to the collective agreement, and therefore both had a responsibility to avoid or remove discriminatory clauses from their contract. Pointing out that the woman had been caught in a "turf war" between the company and the union, the Court ruled that "companies, unions and persons are all in a primary and equal position in a single line of defence against all types of discrimination."

Kirpan decision upheld

In a separate ruling, the Ontario Court of Justice dismissed an appeal by the Peel



The Code requires employers to accommodate the needs of pregnant workers, short of undue hardship to their organization. (Photo courtesy of the Ontario Ministry of Labour)



Board of Education against the Commission. The Court upheld a Board of Inquiry decision that ordered the Peel Board to amend its policies to allow the wearing of kirpans (ceremonial daggers) by Kalsa Sikhs.

The Peel Board had developed a policy forbidding Sikhs to wear the kirpans while on school property. The Court reiterated that the *Code's* prohibition of discrimination on the basis of religion also applied to schools.

The Court supported the Board of Inquiry's ruling that the onus was on the Peel Board to prove that kirpans posed a threat to the safety of others in the school system and that there had been cases of violence involving kirpans in schools.

The Peel Board was unable to provide such evidence. ■

Family status

The Ontario Court of Justice last year upheld a Board of Inquiry decision prohibiting the inclusion of adult-only clauses in condominium policies and by-laws.

In the case of *Cryderman v. York Condominium Corporation No. 216*, the Court

agreed with the Board's decision that adult-only condominiums violate the *Code* by discriminating on the basis of family status.

A Board of Inquiry in 1990 had awarded a combined total of \$36,000 to four Metro Toronto families who had complained to the Commission that they were prevented from occupying units because they had young children.

Frequently, those who discriminate make exceptions

A Board of Inquiry ruled that the owners of a Stratford, Ontario, apartment building had discriminated against Heather Peterson when they evicted her upon discovering that she was pregnant.

According to Ms. Peterson, the building superintendent told her that the owners, Ross and Jean Anderson, wanted to know if she was pregnant. When she told him "yes," he asked her if she planned to have the baby adopted. He told her if she did not do so, she would have to move out because "Mr. Anderson does not want children in the building."

The owners denied the allegations, claiming that they evicted Ms. Peterson because she had too many parties.

The Board accepted Ms. Peterson's account of the events. It ruled that the evidence did not support the landlords' claim that she had numerous parties, and furthermore, that the issue of too many parties had not

been raised at the beginning of the complaint process. That there were some children, mostly teenagers, in the building did not defeat the woman's case. According to Board Chair Constance Backhouse, "Individuals do not always behave entirely consistently. Frequently, those who discriminate make exceptions."

The Board also found that Ross and Jean Anderson evicted Ms. Peterson because of their disapproval of her marital status. (She was unmarried when her child was born).

The Board ordered the Andersons to pay Ms. Peterson's moving expenses, telephone and cable reconnection charges and the difference in rent for her new apartment, from the time she was evicted to the time the Board order was given. The Board also awarded general damages of \$1,000. ■



As one of the grounds on which discrimination is prohibited in the *Code*, handicap has had, since 1986, the largest number of complaints of all grounds.

Last year was no exception. The Commission received 815 disability-related complaints (32 percent of the total), resolved more than 1,000 and negotiated more than \$1 million in settlements on behalf of complainants.

Among the many significant cases dealt with was one involving a woman with a mental disability, who alleged that the Great West Life Assurance Company discriminated against her by providing less disability coverage than it did persons with physical disabilities.

The woman, who suffered from chronic depression, claimed that she was offered only 12 months of disability coverage, while persons with physical disabilities received 24 months of coverage.

The woman received more than \$8,000 in damages and additional coverage. The company also agreed to remove the phrase in its contract with employers that called for benefits to be stopped after 12 months unless an employee is confined to a hospital.



The largest number of complaints to the Commission are those from people who experience discrimination because of their handicap. (Photo courtesy of the Ontario Ministry of Labour)





AIDS/HIV and the *Code*: 'a significant milepost'

Another area of challenge was in the application of the *Code* to AIDS/HIV related disabilities. AIDS/HIV fall within the *Code*'s definition of handicap.

In October 1991, the Commission made submissions to the Ontario Law Reform Commission in which it called for changes to legislation, such as the *Health Protection and Promotion Act*. Under the Act, medical personnel are required to submit personal information with each request for testing a specimen for AIDS/HIV.

The submission called for anonymous testing for AIDS/HIV and stressed that under the *Code*, a person could not be tested unless he or she gave informed, voluntary consent.

The Commission reviewed all AIDS-related complaints to make sure that they had been placed on its fast-track system. Procedures were put in place to allow persons who experienced discrimination because they had AIDS/HIV or were thought to be AIDS/HIV-positive to have their complaints dealt with quickly and confidentially.

The Commission also organized AIDS/HIV training workshops for all of its staff and the Commissioners. The workshops

were run by community advocates from the AIDS Committee of Toronto.

In March, 1992, the Toronto-based Clarendon Foundation agreed to pay one of its former employees, Gary Thornton, \$35,000 as part of a settlement to a complaint by Thornton alleging that he was fired from Clarendon because he was HIV-positive.

A settlement was arrived at while the case was being heard at a Board of Inquiry.

The Foundation also agreed to reinstate Thornton to his job with full benefits, provide its staff with AIDS-awareness training and implement an AIDS/HIV policy.

Chief Commissioner Catherine Frazee called the settlement a significant mile post in the long journey to reinforce the right to equal treatment for persons living with AIDS/HIV.

A Board of Inquiry dismissed a complaint against a Windsor dentist by a man living with AIDS, who alleged that the dentist refused him treatment after learning of his condition.

The Board found that Dr. Paul DeMarco did not deny the man treatment but rather rescheduled him for the last appointment of the day.

Discrimination in employment

In other areas of employment, a Board of Inquiry ordered the Stemms Restaurant Ltd. in Toronto to compensate Martin Rapson, a former employee who was fired after having an epileptic seizure at work. The management of the restaurant claimed that, as a bartender, Mr. Rapson was at risk if he had a seizure while handling glassware.

The Board ruled that medical evidence showed that Mr. Rapson was at low risk of having a seizure and that his epilepsy in no way made him unsuitable for employment.

as a bartender. The Board ruled also that he was not obligated to disclose his disability prior to being hired for the job.

Although the *Code* requires employers, landlords and service providers to accommodate the needs of persons with disabilities, an organization can be exempted from this requirement if it experiences undue hardship in making such accommodation.

A Board of Inquiry dismissed a complaint against the Ministry of Health by a former employee who suffered from depression and anxiety. Although the Board ruled that the man's disability was not the reason for his dismissal, it assessed what would have been the requirements for accommodating his disability, which the man claimed the Ministry had failed to do anyway.

The Board agreed that extending the man's probationary period was one way of accommodating him. It decided, however, that to have done so would have caused undue hardship to the Ministry. Rather than assessing the man over a 12-month period, the Ministry would have had to allow him to accumulate 12 months of days on the job, regardless of how long this took, due to absence from work. ■



Last year, two employees of Christian Horizons Homes, Kelly Parks and Holly McIntyre, filed a complaint against their employer after they were fired for living in common-law relationships.

Christian Horizons describes itself as a transdenominational organization, primarily serving the evangelical Christian interests of its founding and present executive, personnel and residents. The organization provides nursing care and residence to developmentally handicapped persons.

The Board of Inquiry rejected the ground of dismissal, noting that the organization had offered one of the women a part-time job after she was dismissed from her full-time position.

Neither Parks nor McIntyre had been told of the organization's policy before they were hired.

The Board also found that Christian Horizons had failed to prove that one of its primary functions was to create an evangelical Christian environment and that all employees were essential to fostering this environment.

In the case of *Sandra Garrod v. Rhema Christian School*, on the other hand, the Board ruled that the role of a teacher *was* an integral part of creating a Christian environ-

Marital status

The Code offers the same protection to philanthropic, educational, fraternal and social institutions or organizations that serve the interests of persons identified by race, ancestry, place of origin, colour, ethnic origin, creed, sex, age, marital status and handicap.

Section 23(1)(a) of the *Code* permits a religious organization that is serving the interests of its subscribers to preferentially hire staff who subscribe to the those same religious beliefs. This applies *only if* this requirement is reasonable and *bona fide*, given the nature of the job.



ment in the school. The schools teaching contract also explicitly prohibited conduct that is in flagrant conflict with Christian ethics and morals.

A common-law relationship, the Board said, is accepted in the Christian community as a breach of Christian morals and, as such, the school boards decision to fire Ms. Garrod was not prohibited by the *Code*. ■

Race, colour, ancestry, place of origin or ethnic origin

Complaints of discrimination on the basis of race have increased steadily over the last four years, from 224 (13 percent) in 1987/88 to 460 (18 percent) in 1991/92.

Discrimination on the grounds of ancestry, citizenship and place of origin accounted for another 101 complaints last year.

Race cases are some of the most challenging to prove at a Board of Inquiry. Rarely is any direct evidence of racial discrimination found for complaints of this type.

Racial or sexual slurs, harassment and jokes poison the work environment and are a form of discrimination. (Photo courtesy of the Ontario Ministry of Labour)

In many race cases, Commission investigators must attempt to piece together the underlying racial bias by probing vague and subjective evaluations and by rigorously scrutinizing explanations for inconsistencies.

This process has been compared to constructing a large, complex jigsaw puzzle without all of the pieces: The challenge is to fit together enough of the pieces so that the Board of Inquiry gets the picture.

One of the most devastating forms of racial discrimination is when a person falls victim to practices and policies that on the surface may appear harmless but can have the effect of creating barriers to equality.

In a case involving the Metro Toronto Housing Authority (MTHA), the Commission negotiated a settlement of \$5,300 following a complaint by a black employee, who claimed that MTHA had denied him several promotions over a 13-year period.

The Ghanaian-born man had received satisfactory performance reviews, studied general sciences at the University of Toronto, been on 14 professional development courses, received accreditation as a building technologist and earned a diploma in architectural technology.

He claimed that MTHA denied him work experience that would have qualified him as an architectural technologist.



What's in a joke?

In another case, a Filipino-born employee of the Lincoln County Humane Society complained that he was denied a promotion because of his race and small stature, which he said is a product of his ancestry.

A Board of Inquiry ruled that there was no direct link between the work-place behaviour and the man's failure to obtain the promotion. It ruled that the promotion was awarded to another employee because the Filipino man lacked on-the-road experience.

The Board of Inquiry however found that negative attitudes, in the form of racist jokes and slurs, had been tolerated at the Humane Society. The Board recommended that the Society form a committee to educate employees on the inappropriateness of racial jokes and slurs.

The Commission's *Policy on Racial Slurs and Harassment and Racial Jokes* views racial jokes and slurs as a form of discrimination that prevents affected employees from enjoying their right to freedom from harassment in the workplace. Jokes and slurs also contribute to what has become known as a "poisoned work environment."

The policy states that since the *Code* provides for equal treatment in the workplace, an employee who works in a poisoned environment is subject to terms of employment that are quite different from those experienced by individuals who are not subjected to the same type of comments or treatment.

The employees' right to equal treatment with respect to employment may thus be violated in such an environment.

Not Italian enough?

Direct discrimination takes many forms as well. In Toronto, a black Italian woman complained that she was denied a job as an Italian Counsellor with the Immigrant

Womens Centre after questions were raised in the organization concerning her colour and place of origin. Born in Eritrea (Ethiopia), a former Italian colony, the woman had spent several years living and studying in Italy. She spoke fluent Italian.

In a negotiated settlement, the woman was given another job with the organization and compensated \$5,000 in general damages.

* * *

In Windsor, a settlement was negotiated between the Exchange Restaurant and a black woman who had applied for a job as a waitress. The woman claimed that when she requested a job application form from the restaurants owner, she was told that the positions were filled. A short while later, the woman's friend, who is white, obtained a form from the bartender. Several positions were subsequently filled.

The Commission referred the case to a Board of Inquiry, but settlement was reached after the first day of the hearing.

The restaurant agreed to revise its application forms to comply with the Commissions guidelines, provide application forms to everyone who requested them, and post notices declaring its commitment to em-





ployment equity and the principles of the *Ontario Human Rights Code*.

The Commission may also conduct audits over a three-year period to ensure that the restaurant is carrying out the terms of the agreement.

A complainant has the right to appeal a decision of the Commission or a Board of Inquiry through all stages of the judicial process. The Ontario Court of Justice last year conducted a judicial review of a complaint by a Hamilton vendor, who alleged that she had experienced severe racial discrimination at her place of business in a farmers' market.

The respondent, the Corporation of the City of Hamilton, offered a settlement that, in the Commissions view, was full and adequate, given the nature of the complaint and the public interest that the Commission represented. The Commission told the woman that it may not be willing to request a Board of Inquiry to hear her case, because it was satisfied with the settlement offer.

The woman agreed to the terms of the settlement but asked the courts to review the Commission's refusal to request a Board of

Inquiry. She claimed the Commission had coerced her into accepting the settlement.

The Court dismissed her request for review on the ground that, even though the Commission had encouraged her to accept the settlement offer, it had not stated that it would not request a Board hearing if she did not accept the offer.

Professional associations, boards fall under the *Code*

The Supreme Court of Canada handed down a decision on an appeal by the National Dental Examining Board of Canada as to whether the Board came under the jurisdiction of the *Ontario Human Rights Code*.

The Board appealed to the federal court after two Ontario dentists complained to the Commission that they had failed their dental licensing exams because the Board discriminated against them on the basis of their ancestry, place of origin, ethnic origin and gender. Both had been trained abroad in dentistry.

The Court's ruling confirmed the province's exclusive authority to regulate professions. It also established that when provincial licensing bodies create organizations to develop national standards for certification, these bodies fall within the jurisdiction of certain provincial legislation, such as the *Code*. Therefore the Commission had jurisdiction over the dentists' complaints. ■

Sex (gender)

The *Ontario Human Rights Code* provides for protection from discrimination on the basis of sex (gender) or pregnancy. Most such incidents of discrimination occur in the workplace.

A Board of Inquiry ordered the Cannonball Restaurant in Brampton to pay a former waitress more than \$13,000 after she was



As more women enter nontraditional fields, employers must ensure that the workplace is free from systemic and overt discrimination. (Photo courtesy of the Ontario Ministry of Labour)



fired by a manager, whom other waitresses said preferred "nice, young-looking girls." The woman was pregnant when she was fired.

The Board found the manager and the owners liable, even though the owners had recently purchased the restaurant and did not own it at the time the incident took place.

The Board rejected the restaurant's claim that it fired the pregnant waitress because it feared she would get hurt if a fight broke out. It accepted instead the argument that a pregnant waitress was not considered part of the restaurant's image.

According to Board Chair Constance Backhouse, a long line of human rights decisions has enunciated the clear principle that customer preference cannot be used to justify a discriminatory act.

In another case involving a pregnant employee, the Ontario Divisional Court upheld a Board of Inquiry decision that the woman's employer was wrong in refusing to reassign her to an area of the plant that posed less of a threat to her unborn child. The employer had also insisted that she take an unpaid leave of absence for the remainder of her pregnancy.

The Court ruled that Emrick Plastics' policy of assigning spray painters to per-

form painting duties only, excluded painters who, due to pregnancy, might not be able to perform these duties.

According to the Court, the company was unreasonable in rejecting an opinion by the woman's doctor stating that paint fumes could be harmful to the fetus. The doctor recommended that the woman be given other duties. The Court described the company's behaviour as "demanding, paternalistic and legalistic," especially in light of its failure to provide evidence to counteract the doctor's opinion.

Stating that there was ample evidence to support the Board of Inquiry's findings, the Court dismissed the company's appeal.

* * *

The Code permits the Commission to use its discretion in deciding whether a respondent's offer of settlement provides proper compensation for a complainant and fully meets the public's interest.

In the case of *Guthro v. Westinghouse Canada Inc.*, the Commission exercised its discretion to not present evidence at a Board of Inquiry hearing, because it felt that the respondent's offer of settlement, made after the Board had been appointed, was a full and accurate remedy to the complaint.



The hearing proceeded after the complainant's lawyer decided to call evidence in support of the private interest of the complainant under the *Code*.

The complainant, Linda Guthro, alleged that the company discriminated against her because of her sex when it refused to transfer her to other departments when it was downsizing.

The Board found Westinghouse liable for its refusal to reassign her to a department that was all male. Moreover, the Board said, the company had not provided it with an acceptable reason for maintaining an all-male department and for hiring less-qualified men than Ms. Guthro.

The Board ordered Westinghouse to pay Ms. Guthro close to \$6,000, plus interest, for lost wages. ■

Sexual harassment

The year 1991 will undoubtedly remain etched in the public's mind as the year that sexual harassment and date rape were catapulted to the forefront as serious problems to be reckoned with in our society. The issue reached a climax during the Anita Hill-

Clarence Thomas controversy. Thomas' confirmation hearings in the United States led to a dramatic increase in enquiries from the Canadian public about the definition of sexual harassment under the *Ontario Human Rights Code*, the way to handle sexual harassment, particularly in the workplace, and how to develop sexual harassment policies.

The Commission last year negotiated close to half a million dollars in settlements in complaints alleging sexual harassment. Other terms of settlement included letters of apology, offers of jobs or reinstatement, and agreements to host sexual harassment workshops. Of the 256 complaints received, 244 occurred in the workplace.

The *Ontario Human Rights Code* [Section 9(1:f)] defines sexual harassment as "engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome."

During the week following the Clarence Thomas hearings, the Commission issued a media release on an extraordinary settlement to a complaint made by a former secretary of a Kingston insulation firm, K.B. Home Insulation. The decision attracted international attention, prompting calls from ABC News and Reuters News Agency.

The woman alleged in her complaint that the company's president and sales manager discriminated against her on the grounds of sex, sexual harassment and reprisal.

In addition to a \$20,000 cash settlement, the company agreed to report to the Commission whenever a female employee terminated her employment, to organize a seminar on sexual harassment for all employees and to implement a sexual harassment policy.

The manager against whom the allegations were made also agreed not to remain alone in the office with any female employee. The Commission can conduct spot checks

to ensure that the company and the manager are adhering to the agreement.

In another settlement, the president and chief executive officer of a major Ontario corporation paid his former secretary \$16,500 in damages after she alleged she was sexually harassed in the workplace.

The woman claimed that in the two months she worked for the company, the man made repeated sexual advances to her. He also asked her during a business trip to spend the night with him in his hotel room, which she refused to do.

As part of the settlement, the man agreed to provide her with a handwritten letter of apology; to post notices explaining the *Ontario Human Rights Code* in all company offices and to establish a policy on sexual harassment.

In one of the relatively few complaints of sexual harassment to be resolved at a Board of Inquiry, the Board ordered a Hamilton employer to compensate a former employee more than \$6,000 after the woman complained she was sexually harassed, solicited and then fired after she refused her employer's advances.

The Board found that her employer, a director and co-owner of Joan and Brian's Upholstering & Decorating, gave testimony that was "often emotional and frequently appeared to be concocted."

The woman alleged that her employer's behaviour ranged from dirty jokes to inviting her to his apartment, located in the same building as the business, where he attempted to show her a pornographic movie and made sexual advances to her. She said she refused his advances.

On her second day with the company, the woman allegedly refused his advances again; and on the third day, she was fired. The employer claimed he fired her for poor job performance. The Board, however, found that the woman had not done any-

thing in her work that was unusual to the company's procedures.

The Board concluded instead that "since at least one of the reasons for the woman's dismissal was (the employer's) view of... the unsatisfactory nature of his relationship (with her), ...he had contravened Section 7(3)(b) of the *Code*, which prohibits reprisal by a person in authority upon rejection of sexual solicitation." ■

Systemic initiative — employment agencies

In October 1991, the Commission approved comprehensive, wide-ranging settlement packages that had been negotiated with two Toronto-based employment agencies. Ian Martin Limited and TES Contract Services agreed to settlements calling for the development of detailed three-year employment equity programs.

The settlements followed from complaints initiated by the Commission in January 1991.





The investigation was the first formal one to be conducted by the Commission's Systemic Investigations Unit.

In what was described as the most innovative systemic discrimination settlement in Canada, the two employment agencies also agreed to:

- survey all employees and persons referred to corporate clients to determine the number of designated group members: women, racial minorities, native persons and persons with disabilities;
- implement an extensive employment equity program to ensure that their own workplaces will be representative of the population;
- encourage their clients to hire designated group members;
- review the policies and practices in their workplaces that could act as barriers to the advancement of designated group members;
- provide all present and future staff with training in employment equity, human rights, race and ethnic relations;
- retain computer and written records of referrals;

- report discriminatory job requests to the Chief Executive Officer of the agency, and
- provide regular reports to the Commission on the progress of all aspects of these settlements.

The terms of these settlements are prescriptions for changing the way employment agencies work. Chief Commissioner Catherine Fazee commented on the settlement.

The message has certainly gone out to those agencies that actively discriminate or whose business practices do so inadvertently, that it is no longer acceptable, that a complaint can be launched against them and that they can be held accountable in very significant and tangible ways.

The two agencies, which have offices in a number of Ontario locations, including London, Ottawa and Hamilton, agreed to a rigorous monitoring program by the Commission to make sure that they are complying with the terms of the settlements.

The Commission retained the right to conduct spot audits of their employment records.

Approval of the settlements was the final phase of an intensive formal investigation, the impact of which was felt across the employment agency industry. At least two major agencies began voluntary employment equity programs.

Also, members of the Association of Professional Placement Agencies and Consultants and the Federation of Temporary Help Services have met with the Commission to discuss ways to ensure that industry practices do not discriminate.

The Chief Commissioner expressed hope that the Ministry of Labour, which is responsible for legislation regulating employment agencies, would soon move to strengthen those regulations. ■

On June 15, 1962, the Government of Ontario took a historic step. It created the *Ontario Human Rights Code*.

The Code pulled together under one piece of legislation the various laws barring discrimination against certain groups in society. The Ontario Human Rights Commission (formerly the Anti-Discrimination Commission) was created to administer the *Code*.

This is the story of the Ontario Human Rights Commission. The initial grounds of the *Code* — race, colour, creed, place of origin, nationality and ancestry — were gradually expanded to include disability, sex (gender) and age. The *Code* came to prohibit discrimination against persons who had received pardon for criminal offences, persons who were receiving welfare or other forms of public assistance and lesbians and gay men on the basis of their sexual orientation.

The story of the Commission is the story of people — people who fought for its creation, who hovered over it and nursed it through its infancy, whose vision and commitment to equity sustained it through years of criticism and reproach, and who sometimes experienced disappointment in their bid to improve it.

The story of the Commission is best told through the voices of those who lived it. It is a story that begins with the...

Dawn of a new era

The 1950s and 1960s were periods of profound change in attitudes toward discrimination in Ontario, mainly against Blacks and Jews.

The demand for change came from all sides, from those who called for human rights legislation and from those who personally fought discrimination wherever they encountered it. Kalmen Kaplansky, first Director of the Jewish Labour Committee; Sid Blum, a labour leader who campaigned hard for human rights legislation; Harry Gairey, who fought blatant discrimination against Black railroad porters; Bromley Armstrong and Don Moore, who were successful in their fight to allow Caribbean women to enter Canada as domestic workers.

One of the most outspoken voices of that period was that of a young lawyer, Alan Borovoy, then Director of the Toronto District Labour Committee. Borovoy was an active participant in the final campaign that led to the creation of the *Code* and the Commission.





Alan Borovoy

Although the *Racial Discrimination Act* (passed in 1944, four years before the United Nations Universal Declaration of Human Rights) and the *Fair Accommodation Practices Act* were in place, it was clear that they were not enough to stop rampant discrimination against Blacks and Jews.

The *Fair Accommodation Practices Act* had jurisdiction over services such as hotels and resorts. Yet in 1961 a Black American couple and their two children, assured of Ontario's equity laws, took their vacation in Ontario, only to be refused service in several hotels.

On their return home, they wrote a letter to the Commission:

Can you imagine how I feel as I sit reading one of your many pamphlets on "How to make your Ontario vacation a memorable one," when having just returned from Ontario ...I find myself wishing I would forget the memory of Ontario?

We are at home now... but the disappointment and embarrassment lingers on. I will always hear my husband's voice saying, "I travelled 1,000 miles to be refused room in the inn."

The Act did not cover the rental of homes and apartments.



Borovoy and his group set up test cases.

We'd go looking for trouble. We would set up surveys where we would have Blacks, followed by Whites, try to get housing. We did it in Toronto, we did it in Windsor, in Hamilton, in St. Catharines. And every time we encountered discrimination, we would blow it up in the newspapers, so that we were developing a consciousness in the community for the kind of legislation we were seeking.

There was the famous case in St. Catharines. A Black family had been evicted under the landlord's excuse that the neighbours did not want a Black family:

We drew up a petition on the spot — We used to do this kind of rough and ready work! — that said the neighbours did not object to having Black families live in the area. The overwhelming majority of people signed the petition. It was an old beaten-up area. This one guy refused to sign the petition. I asked him why, and he looked across the slum and said "because they will ruin the neighbourhood!"

The landlord rescinded the eviction.

*We prepared and drafted a brief (calling for the inclusion of housing in the **Fair Accommodation Practices Act**) and sent it out to organizations all over Ontario. And we lobbied! I remember going to welfare, labour, ethnic and racial minority organizations, churches, municipal councils. We squeezed them, we cajoled them, we pleaded, we bargained, we bluffed, we did every thing we could think of to get them to support our brief! And one by one by one, they agreed (to come to Queen's Park for the face off with Premier Leslie Frost and Minister of Labour Charles Daley.)*

The brief was developed in 1959. By early 1961, Borovoy and his group felt ready.

Ever mindful of the need to make an impact, Borovoy asked for a small room for the meeting (to gain the full impact of a crowd). The Minister of Labour was from St. Catharines, so he made sure there was a particularly large delegation from St. Catharines.



Dan Hill



The important thing was not the brief, but those who supported the brief, who felt the issue was important enough to show up. At the beginning, I introduced every single person in that room. And I didn't care how long it took!

As the names from St. Catharines were read out, the Minister leaned over and said, "Didn't anybody stay home today?"

When the group finished its presentation, the Premier looked at us and said "I think this province is ready for this legislation!" It was a very exciting time.

The legislation was changed to include houses and apartments. ■

Opposition

Those lobbying for human rights legislation faced a peculiar brand of opposition. There was not, according to Borovoy, "an organized opposition to what we were trying to do." Few, if any of their opponents advocated a return to the old days. However, as Marvin Schiff and Dan Hill describe in their book *Human Rights In Canada*, the attitude among even people of good will was, You can't legislate brotherly love. "Consequently, victims of discrimination who publicized their grievances... of-



Gaining ground

Six months after taking office, Hill hired as a clerk a “shy, quiet young woman,” Helen Miller (now Hurley). The staff soon consisted of Hurley, a human rights officer, an education officer, a secretary and Hill himself.

Today Hurley works as administrative assistant to the Director of Regional Services. She recalls the first heady days of the Commission:

(After successful cash settlements,) the complainants all wanted to buy Dr. Hill something. They were so thankful for the money they had coming to them.

Not everyone shared this gratitude. Hurley remembers the day the Commission received a bomb threat from an irate respondent:

The idea of a Commission was very new to everyone, and people were sort of feeling their way around, trying to find out, I guess,

ten had to face humiliation and the resentment of a society that did not suffer ‘trouble makers’ gladly.”

The news media were the chief organs for the expression for these opinions.

But there was another more subtle enemy. Government agreed with the need to establish the *Code* and the Commission, but human rights issues became, according to Borovoy, “a question of priority.”

If we could generate enough pressure for what we wanted, we’d get it. But of course there were lots of constituents and interests competing for the same resources.

Borovoy and the Toronto District Labour Committee lobbied hard for government to put more resources into the fight against discrimination. They believed strongly in public education and proactive investigations. This would demand full-time staff, rather than Ministry of Labour staff, who were administering the acts through the Anti-Discrimination Commission.

Government responded by creating the *Code* and revamping the Commission, appointing as its first director Dr. Daniel G. Hill.



“Respondents tested the Commission.”
— Helen Hurley (at right)



Sita Ramanujam



exactly what the Commission was capable of doing.

I got the feeling that they (respondents) were testing the Commission. Some of the complaints we got were downright discriminatory, and the respondents just said, "Yes, that's what happened." They agreed with everything the complainant had said. But they were not willing to change their mind.

Another long-time member of staff, Sita Ramanujam, also remembers the early days, as the Commission began to establish itself as a force to be reckoned with.

Armed with two graduate degrees from her native India and a family tradition of involvement in equity issues (Her family actively participated in the freedom movement led by Mahatma Gandhi in India and South Africa.) Ramanujam joined the Commission as a specialist officer in 1969. She is now Senior Compliance Coordinator, having served as manager of the Commission's Ottawa region, as well as its eastern and central Toronto offices. She was also manager of the Unit for the Handicapped while it was operational (1982-1989). The Unit was responsible for research, policy, guide-

lines, public education and investigation of disability cases.

In those days, we really felt we were building the foundation of what is now known as the equity movement, focusing on issues such as pay equity, employment equity, women's rights, disability rights and so on. There was a strong emphasis on public education.

Although the Commission was technically in a neutral position between complainants and respondents, Ramanujam feels it had a special significance to groups protected by the Code and they had much faith in it.

There was a great sense of excitement at that time. The Commission was more important to people then, compared to 20 years later, when everyone is so blasé because they know about it. I think they saw us as champions for the rights of the people. We were seen as a small, effective force to be reckoned with, that both educated the public and enforced the anti-discrimination legislation.

Our budget and resources have more than doubled, but we are now seen as a large bureaucracy, where individuals and sometimes groups are lost in a morass of process, procedures and legalities.

By the time Hill ended his term in 1973, the Commission had made great strides in establishing itself as defender of the rights of



groups protected by the *Code*. Hill recalls:

*I think we broadened and made more open the whole area of housing. We didn't cure racism and discrimination, but I was able to challenge a number of realtors. We had numerous Boards of Inquiry. Real estate people began to realize that if they did not comply with the *Code*, there was going to be trouble because I was going to take them to Court. We had a top-notch lawyer, Charles Dubin (now Chief Justice of Ontario), and we won just about all of our Boards of Inquiry.*

Hill was a strong believer in research and education.

You cannot run a Commission, in my view, without developing three major areas: Enforcement is the first and most important. But education is also important. You can't enforce people's rights if they don't know their rights. The third is to establish the parameters of where and what racism is. You do that by solid research.

Using the *Code*'s mandate to educate the public on the *Code*, Hill persuaded the Commission to authorize a study, which resulted in the publication of the book *Teaching Prejudice*, by David Pratt and Garnet McDermaid. Pratt and McDermaid reviewed several hundred books and discovered prevalent racism and sexism.

That book was instrumental in pushing the Ministry of Education into revising its textbook policy. In fact, we pushed them so far that they did their own textbook study. Other provinces also followed suit.

The Commission funded studies in discrimination by the University of Windsor, McMaster University and York University, on issues such as the lack of racial minorities in the news media and advertising and on the need for the Commission to set up a storefront office, which it later did.

*The *Code* was gradually expanded to include additional grounds and areas. (Close to 16 amendments were made during the first 11 years of the Commission).*

But this did not happen without a fight. The voices inside and outside of government that opposed the Commission were still strong, although somewhat muted by the time the Commission was established.

They (always) felt that there was no need for human rights legislation... that those de-



Tom Eberle (at right) "twisted arms ankles and legs" to get human rights legislation passed.

manding reform were just a bunch of Communist agitators. Once the Commission was formed, those voices were still in the background, making a noise here and there.

Hill and other human rights proponents of that era cite the courage and support of Tom Eberlee, then Deputy Minister of Labour, in pushing the legislation forward. Hill noted:

Tom twisted arms, he twisted ankles, he twisted heads — and he said “Do the right thing.” He kept working on (Leslie) Frost, and he convinced him that the legislation was needed. He kept the Cabinet informed. He kept his allies informed. And he fought with cabinet to push human rights amendments.

Hill summarises his term at the Commission:

(Implementing the Code) didn’t intimidate me. I had the support of my Commission; I had the support of the Premier, the Minister and the Deputy. They were always ready to pull out their big guns. They never tried to clamp down on me or shut me up. They thought I was a little nutty, but they respected me. ■

The maturing years

By the mid 1970s, discrimination had begun to take a new turn in Ontario, and once again the Commission was faced with the challenge of change. Changes in the immigration laws led to a dramatic increase in the number of people who came to Ontario from developing countries. The immigrants were for the most part skilled, ambitious and eager to “make it” in their new country.

But many viewed them as a threat, and there were acts of overt racism and physical violence, particularly against Blacks

and persons of South Asian ancestry. The Western Guard Party installed a hot-line with a recorded message that declared that “race is the predominant issue of our time.” The message urged an end to immigration and called for the racial minorities to be expelled to “countries or areas where their own races are in the majority.”

In Toronto, the Black Self-Defence Force urged Blacks to defend themselves against racist attacks. An American television network described Toronto as a racial powder keg.

In April 1976, Buddy Evans, a young black Nova Scotian, was shot to death by a Metro police officer. Bromley Armstrong was a Commissioner at the time, having joined the Commission in that same year. Armstrong, now an arbitrator with the Ontario Labour Relations Board, was a strong critic of discrimination and an active member of the Black community. As a Commissioner, he was no less so:

After the Buddy Evans shooting, we came the closest we have ever been to a race riot in Canada. Many people did not know this, but after the shooting, more than 300 Blacks met at the Four Brothers Club on Spadina; and they were ready to go to the streets — to damage cars, attack people, to proceed to City Hall and to even burn it, if it was necessary.





Armstrong was invited to the meeting. He recalls:

I listened for an hour to the anger and the venom of the people, that they couldn't take any more of this.

Armstrong introduced himself as a human rights commissioner and persuaded the group to channel its anger into a peaceful march on City Hall the next day. In the middle of the march, Armstrong was summoned by the Commission. He refused to leave and continued not only the march but also his vocal support of the Evans family.

The Commission was very disturbed about my actions. I was summoned to a special Commission meeting; and for the first time since I was on the Commission, the Attorney General was also invited to the Commission meeting. I got a distinct impression from the meeting that they wanted one of two things — either keep my mouth shut and back off from the demonstrations or resign from the Commission. They were concerned about the perception people would have of the Commission.

Armstrong offered his resignation, which was rejected.

After that, major discussions took place at the Commission and even at a meeting

with the federal Commission. Should Commissioners be allowed to speak out on these kinds of issues? The Commission remained divided on the issue.

In 1976, the Commission formally became a public body, with Commissioners being appointed entirely from outside of the Civil Service. Three years later, a Race Relations Division was created to deal exclusively with rising community tensions. Three Commissioners were assigned to the Division. One of these was Bev Salmon, now a Metro Councillor:

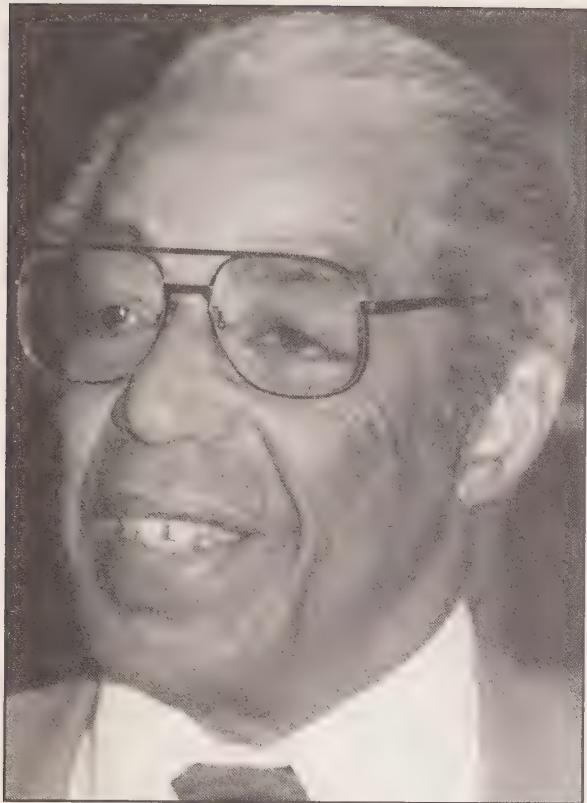
Up to the mid 1970s, if you talked about racism, it was like treason. You could talk about multiculturalism, but there was no way you could talk about racism. Therefore, people sort of pussyfooted around it; and that opened our eyes as to how much of it there was.

In the 1970s, we tried to make groups, such as school boards and the police, aware of (the realities of) racism, including discrimination against racial minority women, which the women's movement was not addressing.

Salmon organized a conference dealing with discrimination facing racial minority women.

As a Commissioner, I worked with Black and East Indian nurses who felt that they had been really victimized by the system and were unable to progress professionally. It affected some of them in a very drastic way. Their mental health suffered, they lost their jobs, and it was quite detrimental to them. It was hard to prove that kind of systemic racism. I worked on a one-to-one level with them, providing support as their cases were being handled.

It was hard to get the support of the Commission on some of the race cases (we were presented with). Usually the Commissioners with human rights or race relations backgrounds would support the decision on behalf of the complainant. Others did not. There was a certain reluctance to believe that



Bromley Armstrong (at left) led the march on Toronto City Hall to protest the Buddy Evans shooting.



some of these situations could have happened.

At the same time, the Race Relations Division did an excellent job of community education and giving support to groups to improve the racial climate.

There were always critics saying the Commission did not do enough in the area of advocacy. But if they were to divert the Commission's resources into advocacy, then its backlog would grow — and I don't agree with the argument that they should abandon the individual complaints process.

The Commission's profile continued to increase, partly the result of strong public education campaigns. This was viewed as a mixed blessing. More publicity meant more complaints than current staff could handle. Furthermore, it was clear that there were still other groups that needed protection under the *Code*. (In 1973, the Commission received some 500 complaints on grounds over which it had no jurisdiction).

In 1976, the Commission recognized the need to conduct a thorough review of all

aspects of the *Code*. Consultation meetings, chaired by Commissioners, were organized across the province. The Commissioners received numerous briefs and presentations on the effectiveness of the *Code* in dealing with discrimination in Ontario.

Life Together, one of the seminal documents in the history of human rights in Canada, was written as a result of these hearings. The report became the basis for the new *Code* in 1981. *Life Together* became a definitive resource, used by human rights commissions across Canada as a model for change.

In his recommendations in the report, Commission Chair Tom Symons called for changes, such as giving the *Code* precedence over all other provincial legislation; prohibiting landlords from discriminating against prospective tenants on the basis of marital status; and providing protection to those with disabilities, those with Ontario criminal records and those who were gay or lesbian.

Bromley Armstrong was one of the Commissioners who conducted the hearings:

They thought Symons' recommendations were way out. They thought he was crazy. Yet when I went to speak to a convention in



Barrie (on behalf of then Minister of Social Services), there were all these (persons with disabilities) who could not even get in through the front door because there were no ramps. One man came in a bed, and they brought him up in the freight elevator in the back.

I was so mad. I said to them, "Human rights in Ontario was defeated by Hockey Night in Canada."

(According to Armstrong, the night the Symons' recommendations were tabled in the Legislature there were only a handful of Ministers present, "and they were running back and forth to look at the game.")

Many of Symons' recommendations — though not all — were eventually included in the Code in 1981.

During that period, the Commission initiated discussions with the North York Mayor, leading to one of the first Mayor's Race Relations Committees in Canada. (These Committees develop and implement strategies for dealing with racial problems in cities.) The ambassador in this instance was former Commissioner and Vice-Chair, Rabbi Gunther Plaut.

Plaut is today a senior scholar at Toronto's Holy Blossom Temple and also chairs

Boards of Enquiries under the Code. Like many others who supported the Commission and its work, Plaut had his own vision of steps that could be taken to make it more effective:

I wanted to see the Commission become completely independent and directly accountable to the legislature. I felt that the influence of the establishment — both bureaucratic and political — was too strong and that the Commission remained a creature of the ruling (political) party.

There was (during the late 1970s and early 1980s), the push and pull of reformist and conservative forces in human rights. But then again, this is the way law comes into being, so the Commission was not unique in that respect. The Commission is there to uphold legal objectives and social ideals, not to reflect current social swings of opinion....

The Commission has grown (as a direct reflection of) the traditional Canadian, orderly, slow, legal process and ethics, accepted as they went along. People know what works and are worried about new things they think will disadvantage them, (such as the amendment of the Code in 1981).

During my era, the Commission came out of the shadows of irrelevancy and began to be a voice that people started to listen to. We had some very activist members on the Commission, who were themselves very visible in the community. Most complaints about the Commission from business-type groups concerned the type of (what they saw as) intrusion by human rights officers, asking staff all kinds of questions. Word gets around and they didn't like it. ■

A time of change

In 1985, with the change of government in Ontario, the Commission initiated a series of reviews of its processes and structures. The following year, significant amendments to the Code were passed by

the Legislature. These included the addition of sexual orientation as a prohibited ground of discrimination and the standard of "undue hardship" being established as the level of accommodation required for persons with disabilities.

In 1987, the responsibility for the Commission was transferred from the Ministry of Labour to the Ministry of Citizenship. This change formed part of a larger government strategy of bringing together a number of equity-type programs under one Ministry.

But storm clouds were brewing. In the years following the 1981 revision of the *Code*, the number of complaints to the Commission doubled, then tripled. The Commission brought to the attention of government the lack of staff and resources to keep abreast of the large number of cases it was now dealing with.

The 1987 Throne Speech acknowledged the need to renew and revitalize the Commission and to create a "strong and independent (body) capable of dealing with matters of discrimination." In August of that year, an outside consulting firm conducted a review of the Commission's effectiveness.

The review recommended fundamental changes in the structure and operations of the Commission. It found that individual case processing was the top priority, almost to the exclusion of the Commission's other legislated responsibilities.

It recommended that the Commission take a preventive approach to discrimination, even as it dealt with the ever-increasing number of individual complaints. This could be achieved through means such as the creation of a systemic investigation unit, a strong public education function and a specialized unit for policy development and research.

The review also recommended that the Commission become more independent of government.



The man chosen to take the Commission through this period of restructuring was Raj Anand, a Toronto labour lawyer who in 1988 was appointed as Chair of the Commission. (He later changed this title to Chief Commissioner.)

The following 17 months were some of the most controversial the Commission had ever experienced. In many ways, this period was a turning point for the organization, as Anand set about to restructure the Commission into a form that he believed would make it more responsive to the needs of the present time.

There was little choice. Equity-seeking community groups were demanding a stronger, more effective Commission, as the organization was seen as weak and ineffectual. Anand lobbied for more resources and was promised a budget increase from approximately \$8 million to \$12 million.

He negotiated with the government to increase the Commission's independence. The Commission established its own administrative structure, instead of depending on staff in the Ministry for its everyday needs.

But most dramatic of all the changes was the way the Commission began to deal with discrimination.



(Individual) complaints investigation was a necessary but woefully inadequate way of getting at systemic discrimination and even direct discrimination. These lengthy, labour-intensive, costly, morale-destructive investigations, which had occupied almost 85 per cent of the staff, were necessary but were not doing the job (of eliminating discrimination in Ontario).

(Individual complaints) usually do not target the worst cases of discrimination, because complaints (about) the worst places usually do not surface.

A systemic investigation unit was created. It was to be staffed with 30 officers.

My view was that we needed to attack discrimination from a broader perspective through a unit that would devote itself to systemic issues and acquire expertise of a completely different nature than that which was involved in individual complaints' investigation.

Through this unit, the Commission was to initiate its own complaints against organizations or sectors of society with what the Commission considered to be deep-rooted, built-in patterns or "systems" of discrimination.

During this period, the Commission approved a request from Ryerson

Polytechnical Institute to issue an order protecting its employment equity program from discrimination complaints. This was the first time the Commission had issued such an order.

The Commission received a similar request from the Ontario College of Art and began the development of a formalized process for dealing with requests for orders. The unit also began work on guidelines interpreting the section of the *Code* that addresses special programs.

Secondly, (I wanted to create) a (specialized) policy and research capacity, instead of engaging in policy formation on an ad hoc basis whenever a complaint came up that the Commission did not know the answer to. (Policy development) needed to be done in a proactive way, so as to disseminate the Commission's work and to get its policies adopted by the institutions in society without the necessity of complaints.

It seemed much more efficient to develop, for example, a policy on racial harassment — which we did — and disseminate it broadly, sell its merits and, hopefully, get it adopted, without the necessity of complaints.

The Commission began work on what would eventually become major policy documents used by labour arbitrators, the legal community and human rights practitioners inside and outside of the Commission. Policies were developed for reasons such as demonstrated need (e.g., "Guidelines for Assessing Accommodation Requirements for Persons with Disabilities"), to provide leading-edge interpretations of equity (e.g., the "Policy Statement on Racial Slurs and Harassment and Racial Jokes"), and to respond to community pressure and changing conditions (e.g., the "Policy Statement on HIV/AIDS-Related Discrimination").

The policy on racial slurs and harassment forwarded the notion that a work environment in which racial slurs and signs are tolerated is in itself discriminatory, whether

or not individual acts of racism are present. The accommodation guidelines interpreted the *Code's* requirement that the needs of persons with disabilities be provided for, short of "undue hardship" to the organization. The Worker's Compensation Board has since adopted these guidelines as its own standard for accommodation.

To fill the need for staff, the Policy and Research Unit negotiated for staff from other units with expertise or interest in policy work to work on policies on a project basis. This further increased the overall expertise of the Commission and provided added skills in dealing with human rights cases.

Under Anand's leadership, the Commission created its own legal unit, forming part of Anand's vision of creating a body of expertise on human rights matters in the Commission. Previously, the Commission had to rely on legal services provided by the Minister of the Attorney General. Now with its own legal staff, the Commission had greater access to legal advice and expertise, not only in litigation but also in the process of its day-to-day operations.

Even with the interest in refocusing the Commission's emphasis to the handling of systemic discrimination cases, however, the Commission could not ignore the increasing number of individual cases. Anand's idea of a quick hearing tribunal process had not come to fruition. The Commission therefore had to channel additional resources into an expanded compliance unit, instead of creating a large unit for systemic investigations.

It was during this time that the Commission's Communications and Education Unit was formed. One of the activities of the unit was to publicize Board of Inquiry decisions and settlements felt to be of educational or deterrent value.

The unit also began to develop programs for providing *Code*-related training to Commission staff, Commissioners and staff from other parts of the Ontario public serv-

ice. A public education function was developed to strengthen links with the community and client groups, to inform them on issues related to the *Code* and the Commission.

The policies developed by the Policy and Research Unit were published in a variety of accessible formats for wide distribution in Ontario.

Anand resigned from the Commission in June 1989, following allegations and criticisms in the news media about his hiring practices. He describes the allegations as "a series of wild fabrications,... which once they were (in the news media) were im-pregnable":

I think (the circumstances around my resignation) resulted in a setback for the Commission and for the plan that I had, regardless of who was going to implement it. That process has been lengthened by (several) years. I think (also that) the morale of the staff suffered greatly and a lot of good people left. Clearly, the Commission was ridiculed in those press stories and no amount of denial could change the impact.

The changes that began during Anand's term as Chief Commissioner continued after he left. So did the upheaval. The caseload mushroomed to close to 3,000.





We recognize that we are a means to the end of social justice and equality. As such, we are committed to facilitating access for those on all sides of an issue who need us, emphasizing outreach, minimizing bureaucracy and speaking plain language.

— Catherine Fazee
Chief Commissioner

Criticisms continued to mount in the media and the community. Staff morale declined.

Anand disagrees that this was solely the result of the circumstances around his departure.

My impression of the Commission before I went there was that there was criticism over the backlog and a general lack of competence. This was part of what I was trying to turn around. I don't know to what extent (the increased criticism of the Commission) was a consequence of the higher profile (it now had).

In any event, by the end of Anand's term, the Commission stood on the brink of what was to be the next stage in its evolution, an era ushered in with the appointment of Catherine Fazee as Chief Commissioner.

Catherine Fazee was to many just what was needed to bring healing and stability to the troubled Commission. Fresh from her role as Coordinating Officer for Amnesty International and with an eclectic background ranging from law to community activism, she brought to the Commission an eloquent, perceptive approach to

equity and justice. A consensus builder, Fazee had something else besides: a genuine compassion for people and a quiet forcefulness that demanded and received respect.

Fazee's task: to complete Anand's blueprint for a revitalized Commission and to prepare the Commission for its new and quite possibly unprecedented role in the 21st century.

It would not be an easy task. The Commission she inherited was best described by Anand in his resignation speech.

The complex community of human rights activists and the public at large are confused. The goals (set out for the Commission) have been obscured. The process is beginning to falter. The Commission... which Ontario needs cannot be built in this environment.

It was an organization in need of internal healing and external credibility, an organization caught awkwardly en route between the 1960s and the 21st century, one whose operational structures, set up to deal with individual complaints, were seemingly ineffective for dealing with the more systemic nature of present-day discrimination.

A budget had been allocated by government to bring necessary changes into effect, but only a fraction of the designated staff had been hired. Specialized units had been created, but their tasks had not yet been

fully defined — nor were they in most cases even staffed. The Commission had begun on a path recommended by the Supreme Court of Canada, that of providing “systemic remedies” for “systemic discrimination.” Yet the Commission’s systemic unit was barely operational.

Frazee rose to the challenge.

Today we understand the need for broad solutions — measures that will transform the ways we educate children, police our communities, advertise products, hire workers, do business, practice medicine and administer justice — to better promote equality, better reflect our social diversity and more truly serve all Canadians.

We have to work not so much on improving our reputation, which is an indirect kind of activity, but on promoting the cause of human rights, which by default improves our reputation and our credibility....

We (will do) everything we can to ensure that employment equity does become a standard in this province. We need to be much more visible to the business community in forms that are less adversarial than the standard human rights complaint. We need to be out and about at conferences, symposia, workshops, so people can learn and ask questions in a no-fault situation.

The “obvious elements” of her term, she said, would be to strengthen the Commission’s educational function and improve its outreach into a wide cross-section of communities, to build its capacity for undertaking systemic investigations and promoting internal healing in the organization.

The vision which we share as partners and allies, is the vision of equality.... That is, equal opportunity, equal participation, equal dignity and respect.... But while its implications may be radical, it is not a radical — and therefore fringe — vision. Rather it is a mainstream vision — it is the vision of the government and the people of Ontario.”

Under Frazee, the Commission expanded its publications program. New publications, such as “*Guidelines for Accommodating the Needs of Persons with Disabilities*” and “*Human Rights in Ontario*,” were published. Others, like “*Employment Application Forms in Interviews*,” were revised and reprinted. Materials were made available in alternative formats, such as audio tape, large print and computer disk. In 1990 alone, more than a quarter million pieces of material were distributed.

The Commission coordinated and in some cases hosted International Human Rights Day activities involving some 7,000 schools, municipalities and elected officials. Its outreach program took Commissioners to several communities across the province to discuss the Commission’s work and vision and to learn first-hand the issues of importance to those communities.

Staff advised and assisted employers in developing policies and procedures to deal with human rights concerns in the workplace and participated in forums ranging from the Canadian Bar Association to the Urban Alliance on Race Relations.

In 1990, the Commission launched the most comprehensive systemic investigation in its 28-year history, resulting in an unprecedented settlement involving two Toronto employment agencies. Later that





year, in another historic move, it approved a request by the Ontario College of Art to issue an order protecting the college from charges of reverse discrimination as it implemented its employment equity program for women.

The Commission initiated a complaint against Trent University, alleging the university's failure to accommodate the needs of students with disabilities. It also worked with government to improve access for persons with disabilities to courthouses across the province.

The Commission also hired an employment equity coordinator, who was charged with the responsibility of developing policies and programs to increase equity in its own workplace. It now, at most levels of its workforce, exceeds the targets set by government. The Commission made a submission to government hearings, calling for mandatory employment equity legislation in Ontario.

At right, Catherine Frazee (seated) with the Hon. Elaine Ziembra, Minister of Citizenship.

Under Frazee, the Commission was challenged to become a model employer and an agent of change:

It is our intention to continue to advance the frontiers of equality and challenge the status quo — to root ourselves as the civilizing centre and uncompromising defender of human rights and of the principles of equal treatment and dignity.

We will continue to be a catalyst for social change... We will continue to press forward with rigour, courage and some risk to support and assist (the disadvantaged members of our society).

With the adoption of a new Case Management Plan in September, 1990, the Commission redoubled its efforts to meet the needs of individuals and groups faced with discrimination. Under the plan, 400 of the Commission's oldest cases were assigned to a special 10-officer task force, a maximum of only 10 cases were to be assigned to human rights officers at any given time (compared to the almost unlimited caseload they had before), and a new case handling system was implemented, which gave priority to urgent cases (such as those involving people living with AIDS), while processing other complaints on a first-come, first-served basis.



The Commission improved screening of incoming cases, set numerical case closing targets for staff, assigned one of its directors exclusive responsibility for case management, gave regional managers increased authority to review and close cases, and boosted legal support for regional activities. A special subcommittee of the Commission was established to review all case management issues.

The results spoke for themselves. Between April 1991 and the end of March 1992, more than 3,000 cases were closed, the highest total ever and 80 percent more than the previous year. Staff handled some 92,000 inquiries from the public, a 63 percent increase over the previous year. Fifty-three percent of cases were closed in less than six months after investigation began. Some 48 percent of these were handled under the Early Settlement Initiative, which meant that they were dealt with within six weeks. The Commission closed more cases than it opened for the first time in 15 years.

But despite its obvious improvement in case management, the Commission continued to be dogged by criticisms from the public and the news media that it was still too slow, too inefficient and too out of touch with the needs of its clients.

In May, 1991, the Ombudsman of Ontario delivered a scathing report to the government, charging that because of the time it was taking to process cases and the

number of cases still unresolved, the Commission was failing in its mandate to provide adequate protection from discrimination to the people of Ontario. (The number of complaints had continued to outpace closures.)

The Ombudsman further noted:

I remain of the view that while the case management procedures contained in the Case Management Plan may be sound, the Commission has not been and will not be in a position to fully implement them while also eliminating (its) backlog in a timely fashion without a larger task force.

Four months later, under the glare of intense publicity and after extensive consultations with the Commission, the Ontario government decided to act. ■

The Commission's role in the '90s is to be on the leading edge — to shape the interpretation of rights so as to empower those who most need and deserve an equal place in our society.

— Anita Fox

Regional Case Co-ordinator, Toronto West





This government is committed to achieving equity and justice. As part of that commitment, it is our responsibility to ensure that the systems and the institutions established for this purpose work.... To this end, I am pleased to announce a comprehensive plan of action to address the difficulties that have plagued the Ontario Human Rights Commission.... (The plan) will require a one-time funding of \$ 6.4 million over three years.

— Elaine Ziembra, Minister of Citizenship,
re: funding initiative, September 24, 1991

Human rights in transition

Decisive words. Words that signalled the end of one era in human rights... and the beginning of another.

To some, these words were the long-awaited admission that the Commission had failed in its responsibility towards groups protected by the *Code*. After all, they argued, "justice delayed is justice denied." And if delay was equal to denial, then there were close to 3,000 people in Ontario who were perceived to have been denied justice. This was the total size of the Commission's caseload, described in the press as its "backlog." In fact, as of June 1991, the Commission had 1,683 cases that were more than six months old.

To others, government had just made one more attempt to save a sinking ship. The *Code* isn't working for Ontario, they said. And as the argument went, if the *Code* wasn't working, neither would the Commission, regardless of how many dollars were budgeted for it.

Catherine Fazee and the Commission saw things differently. The funding announcement was a recognition that their limited resources could no longer cope with the dramatic increase in the number of persons seeking remedy for discrimination under the *Code*. It was a recognition that the effects of internal difficulties, chronic underfunding and repeated amendments to the *Code* had to be dealt with once and for all.

With an eye to the wealth of expertise and commitment to human rights present among its staff and a renewed vision of a future that included not only a manageable caseload but a strong, proactive organization, the Commission set to work to do what it does best — forge new inroads in



case settlements, create legal precedents and establish the kind of public policy positions that have kept it on the leading edge of human rights in Canada since its establishment in 1962.

The bulk of the new funds was used to create an expanded task force, which was assigned approximately 1,000 of the Commission's oldest cases. Thus relieved, the Commission was able to focus its efforts on dealing with current cases in a more timely and efficient manner, to expand and strengthen its Case Management Plan.

The Commission was also in a better position to prepare itself for the future.

The key to a successful future, it was felt, lay in the calibre of the Commission's staff and the extent to which the organization could be an example of the human rights principles it so fervently espoused.

The Commission expanded its training program to include technical skills for officers and support staff and provided training in areas such as labour relations, financial management and leadership skills for

managers. In an effort to increase staff's sensitivity to the needs of its client groups, the Commission arranged seminars on issues such as AIDS, featuring community experts on the topic. Staff also met with a wide cross section of community groups to explain to them its new operational processes.

The Commission tackled the challenge of providing technical skills to work and manage, then turned its attention to fulfilling its third goal: to create an environment that would foster healthy relationships among staff.

The Commission entered into the '90s as an organization struggling to deal with an almost constant state of change. The difficulties of the late 1980s — three new Chief Commissioners and four Executive Directors within a three-year period, constant criticism, government-commissioned inquiries, high staff turnover and demands for change from community advocacy



Shown at left are members of the Commission's Anti-Racism Advisory Committee. At far left is Barbara Thomas, hired as coordinator of the Committee's projects.



groups — proved to be extraordinary challenges to an organization that prided itself on being a beacon of justice and a vanguard against discrimination.

Ironically, these experiences may have uniquely prepared it for the long road ahead in rebuilding internally and restoring its ability to perform its major tasks.

Strategies were introduced to promote organizational healing — an Organizational Health and Effectiveness Committee charged with identifying areas in need of change and the means of doing so, an Anti-Racism Committee with a mandate to develop a strategy for transforming the Commission into an anti-racist workplace and a joint management-union Employee Relations Committee to deal with organizational concerns.

The Commission hopes these provisions will equip its staff with the grit and sensitivity that will be demanded in its continued struggle against discrimination. ■

Beyond the 20th century

In December 1991, three months after the funding announcement, govern-

ment appointed a special task force to review the enforcement procedures contained in the *Code*. The group would be chaired by Toronto lawyer Mary Cornish. In its discussion paper, the task force stated that dissatisfaction with the enforcement of human rights in Ontario continued and pointed a finger at the *Code* itself.

The paper noted:

The Commission itself has publicly called for a review based on its own frustration with the Code's inadequate procedures. It has reached a point where the current enforcement system has become part of the problem rather than the solution.

For several weeks, the task force conducted hearings across Ontario, soliciting responses to and opinions on issues such as whether the complaints process should be decentralized, allowing equity seeking groups to become involved in resolving complaints; whether complainants should have direct access to a tribunal, bypassing the Commission, and whether the Commission's role should be limited to education, advocacy or developing preventive measures for dealing with discrimination.

In the Commission's submission to the task force, Chief Commissioner Catherine Fazee outlined what she saw as the fundamental principles that should govern human rights enforcement for the 21st century:

The Commission believes that an effective comprehensive human rights strategy must employ a wide range of pro-active initiatives, including human rights education, policy development and Commission-initiated systemic investigations. Moreover, these initiatives must be developed through consultation and reflect the priorities of the equality-seeking community....

The Commission is committed to a vision of shared responsibility for human rights, with one cautionary note. A separate mechanism for the resolution of human rights com-

plaints must continue to exist.... There must continue to be a forum where the predominant focus is on issues of equality... accessible to persons without the resources to proceed independently to a tribunal or court. To fail to recognize this is to put in jeopardy the valuable components of the human rights enforcement system that have been built up over the last 30 years.

Exactly how human rights will be enforced in the 21st century is difficult to tell at this juncture. The Cornish report will be reviewed by the Minister of Citizenship, who will decide on exactly how it should be implemented.

In the meanwhile, the Commission has its own beacon of inspiration that guides it into the uncharted waters of the future. Catherine Frazee sums it up:

The “persistent reaffirmation” of human rights is a task of magnitude, complexity and outright difficulty that is, I think, widely underestimated. It is a task that compels us to oppose the insidious power of the untested notion, to challenge error in the form of subtly disguised assumptions and to resist complacency where we feel most secure about our very own postures, positions and “norms.”

Martin Luther King once said that the real enemy is not the ignorant, those who walk in darkness and who hurl the stones and insults; the real enemy is the good people, those who walk in light; those who know better and still remain silent.

Looking at the present and beyond into the next decade, achieving human rights for everyone will challenge some of our long-held beliefs — like the privilege of some to dominate the political and economic arena, shaping it in their own image; like the idea that we are a Christian state; like the belief that there is only one normal sexual orientation; like the attitude that people with physical or mental disabilities are unfortunate or inferior....



To quote Helen Keller: "This is not a time of gentleness, of timid beginnings that steal into life with soft apologies and dainty grace. It is a time for loud-voiced open speech and fearless thinking. Our worst foes are ignorance, poverty and the unconscious cruelty of commercial society. These are the cause of much blindness.... These are the enemies which destroy the sight." The challenge for us in the 1990s, as those who walk in the light, will be to achieve new volumes of loud-voiced open speech and to test to its limits the true power of fearless thinking.

In September, 1992, Catherine Frazee completed her term in office. She was succeeded by Fran Endicott. ■

On the frontlines of legal precedent

Ontario has a proud record of protecting human rights. In 1962, this province became a pioneer in human rights by consolidating all anti-discrimination legislation passed by the Ontario Legislature since 1944 and creating out of them Canada's first *Human Rights Code*.

Thirty years have passed, and during that time, the Ontario Human Rights Commission has strived to forward interpretations



Two Commission lawyers, Geri Sanson (left) and Kaye Joachim, at Osgoode Hall after a hearing.

of the *Code* that are broad, progressive and in keeping with the principles espoused in the preamble of the *Code*, which states:

...Whereas it is public policy in Ontario to recognize the dignity and worth of every person and to provide for equal rights and opportunities without discrimination that is contrary to law, and having as its aim the creation of a climate of understanding and mutual respect for the dignity and worth of each person so that each person feels a part of the community and able to contribute fully to the development and well-being of the community and the Province...

The impact of the Commission's work is especially evident in cases of discrimination in employment. There is no doubt that the Commission and Ontario Boards of Inquiry have made a substantial penetration into the workplace to eradicate various forms of discrimination.

This article serves to highlight a few of the many significant landmark cases. These are cases that have led the way in advancing human rights jurisprudence in the area of discrimination with respect to employment, both in Ontario and in the rest of Canada.

It is now widely accepted in human rights law that certain employees have special needs that require special accommodation,



whether because of religious beliefs, gender, pregnancy, disability or family status. This duty to accommodate, however, was not fully scrutinized until the Ontario Human Rights Commission took the case of *O'Malley v. Simpsons Sears* to the Supreme Court of Canada.

The O'Malley case involved the examination of the employers requirement that an employee, Theresa O'Malley, work a scheduled shift on Friday nights and Saturdays. A member of the Seventh Day Adventist Church, Ms. O'Malley requested this time off work for her Sabbath, which runs from sundown Friday to sundown Saturday. The employer refused to accommodate her request for different treatment from other full-time employees, so she complained to the Ontario Human Rights Commission that she had been discriminated against because of her creed.

The issue of accommodation was argued before a Board of Inquiry. The Board questioned whether the employer had acted reasonably in attempting to accommodate the employee in all circumstances of the case and, concluding that the employer had done so, dismissed the complaint.

The Commission appealed the case to the Divisional Court. The majority of the Court held that the Commission was obliged to prove intention to discriminate by the employer. The Court held that the *Code* imposed no obligation on the employer to accommodate, reasonably or otherwise. This decision was unanimously affirmed by the Court of Appeal.

The Supreme Court of Canada, in a long-awaited decision, held that, in spite of the *Code*'s failure, at the time, to explicitly require employers to accommodate the special needs of its employees in cases of adverse discrimination, such a requirement was implicit in the wording and purpose of the *Code*. Mr. Justice McIntyre of the Supreme Court said in rendering his decision:

In my view for this case, the answer lies in the Ontario Human Rights Code, its purpose, and its general provisions. The Code accords the right to be free from discrimination in employment. While no right can be regarded as absolute, a natural corollary to the recognition of a right must be the social acceptance of a general duty to respect it and to act within reason to protect it. In any society, the rights of one will inevitably come into conflict with the rights of others. It is obvious then that all rights must be limited in the interest of preserving a social structure in which each right may receive protection without undue interference with others. This will be especially important where special relationships exist in the case at bar, the relationship of employer and employee. In this case, consistent with the provisions and intent of the Ontario Human Rights Code, the employees right requires reasonable steps towards an accommodation by the employer.

As a result of the *O'Malley* case, the Ontario *Code* was amended to specifically require accommodation. The duty to accommodate is now contained in three sections of the *Code*: Section 11 (constructive discrimination), Section 17 (handicap) and Section 24 (special employment).

Unions held liable

A recent Ontario Board of Inquiry decision has advanced the law relating to the duty to accommodate individuals in the area of employment. In *Gohm v. Domtar*, the Board of Inquiry found that Ms. Gohm was discriminated against by her employer and her union on the basis of her creed. Ms. Gohm was hired by Domtar as a lab technician, a position that required her to work Monday to Friday in addition to rotating half days on Saturdays.

As in the *O'Malley* case, Ms. Gohm was a member of the Seventh Day Adventist Church, which required that she refrain from working on the Sabbath.

The evidence before the Board was that, after commencing employment, Ms. Gohm informed her supervisor that her religion required that she did not work on Saturday and asked for assistance in making arrangements to accommodate her beliefs.

Ms. Gohm also sought assistance from the union regarding this accommodation. At the time, the collective bargaining agreement provided that the work schedule be maintained to serve Saturday shift requirements and that any work done on Sundays be paid at the overtime rate. Although Ms. Gohm requested to work her Saturday shift on Sunday at regular pay, the union took





Naomi Overend, a Commission lawyer, in the Osgoode Hall law library. The Commission has for 30 years been on the forefront of human rights legislation.



the position that unless the collective agreement could be modified to accomplish this, they were bound to uphold the pay provision in her case.

Eventually, the union and the company reached an impasse on this issue and the company terminated Ms. Gohm's employment. The Board of Inquiry held that the termination of Ms. Gohm's employment was an infringement of the *Code* and that the Saturday shift requirement discriminated against Ms. Gohm with regards to her terms and conditions of employment, contrary to the *Code*. The Board held the union liable for maintaining, if not creating, the rule of the Saturday work schedule. It pointed out that the union had not attempted to exempt Ms. Gohm from the clause dealing with overtime pay, nor did it take steps to modify the clause.

The importance of the *Gohm* decision is that it places a shared responsibility on unions and employers for eradicating where possible, discriminatory rules or policies in the workplace. This reasoning is consistent with the broad purposes that the *Code* seeks to promote.

* * *

Prior to the 1981 amendments to the *Code*, sexual harassment on the job was not specifically prohibited by any human

rights statute in Canada. Arguing that sexual harassment amounted to sex discrimination, even though the previous *Code* did not specifically state this, the Commission was successful in establishing important precedents before Boards of Inquiry.

Jurisprudence on sexual harassment in Canada began in Ontario in 1980 with the *Bell & Korczak v. Ladas & The Flaming Steer Steak House* case. In this case, the two female employees alleged that they had been sexually harassed by their employer, who was the owner of the restaurant. They claimed they were fired because they refused his advances.

The Board of Inquiry concluded that the purpose of human rights legislation was to establish uniform working conditions for employees and to remove matters such as race, creed, colour, age, sex, marital status, nationality or place of origin as relevant considerations in the workplace.

The Board, in what was to become a widely accepted statement of the scope and rationale for the rule against sexual harassment, stated:

The forms of prohibited conduct that, in my view, are discriminatory run the gamut from overt gender-based activity, such as coerced intercourse, to unsolicited physical contact to persistent propositions to more subtle conduct, such as gender-based insults and taunting, which may be reasonably perceived to create a negative psychological and emotional work environment. There is no reason why the law, which reaches into the work-

place so as to protect the work environment from physical or chemical pollution or extremes of temperature, ought not to protect employees as well from negative, psychological and mental effects, where adverse and gender-directed conduct emanating from a management hierarchy may reasonably be construed to be a condition of employment.

The Board in *Bell* unequivocally stated that sexual harassment came within the general prohibition against sex discrimination in relation to the terms or conditions of employment. Human rights tribunals in other Canadian jurisdictions instantly followed the philosophy and reasoning of *Bell* and held that sexual harassment amounts to discrimination on the basis of sex and was prohibited under their respective human rights statutes.

Ontario cases since *Bell* have clearly demonstrated that the prohibition in human rights statutes against sex discrimination in the form of sexual harassment, is a far-reaching one. Ontario was the first to amend its *Human Rights Code* to specifically ban sexual harassment. The Ontario legislature, by the 1981 amendments to the *Code*, had finally accepted the condemnation of sexual harassment in the contemporary work environment. These statutory provisions provided the much needed support for human rights agencies to combat sexual harassment in the workplace.

The predecessor to the current *Code* provisions prohibited discrimination in employment on the basis of race. However, it was initially unclear as to whether these provisions protected employees from racial harassment by fellow employees in the workplace. In the *Simms v. Ford Canada* case, it was first held that they did.

Simms was the first Board case in which it was argued and decided that the *Code* protected employees from racial harassment by other employees. In the *Simms* case, the complainant had been called a "nigger" during an argument with a supervisor. The Board commented on the subject of

whether calling a black man a "nigger" in an employment situation is prohibited by the *Code*:

In my view, the answer is that, in some circumstances, it may. For example, an employer who, knowing that he may not, without violating the Code, refuse to employ a qualified applicant for employment because of his colour or race, employs a person and then stands by idly in the knowledge that his supervisory personnel or, indeed, any employees are making him feel uncomfortable in the plant by using insulting terms with references to his colour or race. In those circumstances, it may be said that the employer is discriminating against that person with regard to a condition of employment because of his race or colour.

Simms established the important precedent that the use of racial slurs and racially derogatory language constituted discrimination, even in the absence of legislative provision at the time. Cases since *Simms* have made it clear that the atmosphere in which an employee must work is a condition of his or her employment. Should that atmosphere be oppressive or poisoned against a minority group because of demeaning comments or actions, then those persons could be said to be discriminated against.

* * *





Cameron v. Nel-Gor Nursing Home

was the first case under Ontario human rights legislation to deal with handicap as a prohibited ground of discrimination after the passage of the 1982 legislative amendments to the *Code*. The complainant, Cindy Cameron, was born with a disabled left hand. Three fingers on the left hand had been fused at birth, leaving the three middle fingers considerably shorter than those on her right hand.

Cameron sought a full-time position as a nurses aide at the nursing home. During a medical evaluation, the administrator of the nursing home decided that Cameron could not cope with the gripping or clasping required for lifting patients because of her disability. At no time was the complainant asked to demonstrate her grasp in a simulated lifting situation, which could have been done easily under the circumstances.

The Board of Inquiry found the nursing home in breach of the *Code*. The Board's decision was later affirmed by the Divisional Court. The Board noted that the *Code*'s handicap provisions were enacted primarily to prohibit widespread employment practices and policies that discriminated against persons with disabilities.

These are often evident in workplaces, where, out of fear, ignorance, stereotypical

assumptions or misguided paternalism, employers refuse to make employment decisions based on a person's true ability. The Board found that while the Commission had made out a *prima facie* case of discrimination, it fell upon the respondents to prove otherwise. The respondent could do this, under section 17(1) of the *Code*, by establishing that the person is incapable of performing or fulfilling the essential duties or requirements attending the exercise of the right because of the handicap.

The Board stated in its judgment that a respondent must establish by a preponderance of objective evidence that the handicap of the complainant renders her incapable of performing or fulfilling the essential duties or requirements of the job.

This case is important too in that it outlines the objectives of the *Code*'s handicap provisions, the first being to secure for the disabled person equal opportunity in employment.

As can be seen, human rights decisions in Ontario have adopted and continue to adopt the *Code* according to a broad and progressive interpretive approach. The underlying rationale is to give effect to the principles set out in the *Code* and impose responsibility for eradicating discrimination on all who are in a position to do so. ■

Table 1: Complaints by region of registration & ground, 1991/92



	Race or colour	Ethnic origin ¹	Creed	Sex & pregnancy	Sexual harassment	Sexual orientation	Age	Marital status	Family status	Handicap	Public assistance ²	Record of offences ³	Reprisal	No grounds	Breach of settlement	Total	Percentage (%)
Eastern	40	12	12	60	39	2	24	10	19	116	13	1	1	3	1	353	14
Hamilton-Niagara	20	2	4	39	21	5	22	7	11	70	4	0	3	3	1	212	8
Northern	37	8	6	38	30	1	19	5	13	75	8	0	3	0	0	243	10
Southwestern	48	17	4	49	52	4	23	9	7	153	8	1	2	1	0	378	15
Toronto Central	92	22	12	48	33	17	18	8	18	71	5	2	3	0	0	349	14
Toronto East	97	24	13	76	38	4	24	8	27	185	6	3	4	0	0	509	20
Toronto West	126	16	14	65	43	3	44	5	17	145	8	0	4	0	1	491	19
Total	460	101	65	375	256	36	174	52	112	815	52	7	20	7	3	2,536	100
Percentage (%)	18	4	3	15	10	1	7	2	4	32	2	—	1	—	—		

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

Table 2: Complaints received by ground & provision, 1991/92

	Race or colour	Ethnic origin ¹	Creed	Sex & pregnancy	Sexual harassment	Sexual orientation	Age	Marital status	Family status	Handicap	Public assistance ²	Record of offences ³	Reprisal	No grounds	Breach of settlement	Total	Percentage (%)
Services	80	18	13	18	0	10	14	10	12	103	1	0	0	3	0	282	11
Housing	48	12	1	9	12	1	19	11	73	45	51	0	0	2	0	272	11
Contracts	1	1	0	2	0	0	0	0	2	3	0	0	0	0	0	9	-
Employment	330	70	45	341	244	25	141	31	25	660	0	7	0	2	1	1,922	76
Vocational association	1	0	6	4	0	0	0	0	0	4	0	0	0	0	0	15	1
Reprisal	0	0	0	1	0	0	0	0	0	0	0	0	20	0	0	21	1
Breach of settlement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	-	-
Total	460	101	65	375	256	36	174	52	112	815	52	7	20	7	3	2,535	100
Percentage (%)	18	4	3	15	10	1	7	2	4	32	2	--	1	--	--		

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

Table 3: Settlements effected by ground, 1991/92



	Specific & general damages	Complainants receiving damages	Offer of job or facility	Offer of, or consideration for, next job or facility	Affirmative action implemented	Seminars with respondent staff	Review of policies or documents	Issuance or correction of references	Letter of apology to complainant	Written declaration of management policies
Race/colour	\$191,024	62	39	10	3	22	59	34	54	119
Ethnic origin ¹	\$9,842	3	10	1	0	9	9	1	10	18
Creed	\$12,525	8	7	0	1	3	15	2	15	16
Sex & pregnancy	\$248,244	89	52	7	0	15	48	28	29	95
Sexual harassment	\$475,428	82	21	0	2	24	46	20	49	96
Sexual orientation	\$1,700	2	3	1	1	4	3	1	4	7
Age	\$209,758	23	19	6	0	9	22	2	19	41
Marital status	\$44,357	12	9	1	0	0	11	1	7	17
Family status	\$37,312	20	14	5	0	6	19	2	19	30
Handicap	\$1,001,721	208	149	7	0	43	98	72	61	175
Receipt of public assistance ²	\$343	3	8	1	0	1	4	0	2	9
Others	\$11,750	2	1	0	0	0	2	3	3	6
Total	\$2,244,004	514	332	39	7	136	336	164	272	629

1. Citizenship, ancestry, place of origin

2. Only in accommodation

Table 4: Complaints closed by disposition, 1991/92

	Race or colour	Ethnic origin ¹	Creed	Sex & pregnancy	Sexual harassment	Sexual orientation	Age	Marital status	Family status	Handicap	Public assistance	Record of offences ²	RBOSNG ³	Total	Percentage (%)
Employment															
Board appointed	8	1	8	20	17	1	7	6	2	25	0	0	0	95	4
Settled	198	37	37	248	170	10	98	28	28	525	0	5	1	1,385	58
Dismissed or not pursued	48	21	9	26	14	1	54	3	3	202	0	0	1	382	16
Withdrawn	93	19	12	99	44	5	24	7	9	212	0	2	0	526	22
Total	347	78	65	393	245	17	183	44	42	984	0	7	2	2,388	100
Accommodation															
Board appointed	0	2	0	1	0	0	0	0	7	3	0	0	0	13	4
Settled	26	9	0	4	5	0	15	13	56	38	43	0	0	209	69
Dismissed or not pursued	2	1	0	2	0	0	1	2	5	3	3	0	0	19	6
Withdrawn	11	5	2	3	3	2	4	1	13	11	9	0	0	54	21
Total	39	17	2	10	8	2	20	16	81	55	55	0	0	305	100
Services															
Board appointed	3	0	1	2	0	0	4	1	0	20	0	0	0	31	8
Settled	59	11	9	12	0	5	12	9	4	95	1	0	0	217	57
Dismissed or not pursued	11	10	5	10	0	0	2	4	2	8	0	0	3	55	14
Withdrawn	14	7	5	5	0	6	3	6	5	29	0	0	0	80	21
Total	87	28	20	29	0	11	21	20	11	152	1	0	3	383	100
Contracts, vocational associations, reprisals, breach of settlement															
Board appointed	3	1	0	4	0	0	1	0	1	1	0	0	0	14	11
Settled	4	0	10	5	3	0	1	0	3	9	0	0	0	44	35
Dismissed or not pursued	3	1	3	2	1	0	1	0	2	15	0	0	15	43	35
Withdrawn	0	1	1	1	1	1	1	0	0	6	0	0	11	23	19
Total	10	3	14	12	5	1	4	0	6	31	0	0	38	124	100

1. Citizenship, ancestry, place of origin
2. Only in employment
3. RBOSNG - Reprisal, Breach of Settlement, No Grounds

Table 5: Employment complaints closed by disposition & ground, 1991/92



	Race or colour	Ethnic origin ¹	Creed	Sex & pregnancy	Sexual orientation	Age	Marital status	Family status	Handicap	Record of offences ²	RBOSNG ³	Total ⁴	Percentage (%)
Recruitment and hiring													
Board Appointed	4	1	0	4	0	1	1	0	5	0	0	16	5
Settled	32	7	5	42	1	36	10	10	61	1	0	205	63
Dismissed or not pursued	8	10	2	5	0	8	0	1	11	0	1	46	14
Withdrawn	14	3	3	13	2	4	0	2	16	1	0	58	18
Subtotal	58	21	10	64	3	49	11	13	93	2	1	325	100
Percentage	18	6	3	20	1	15	3	4	29	1	1		
Termination													
Board Appointed	0	0	5	7	1	3	3	2	18	0	0	39	3
Settled	85	12	15	150	4	44	11	11	359	2	1	694	54
Dismissed or not pursued	17	7	4	12	1	37	0	2	163	0	0	243	19
Withdrawn	42	9	5	62	2	16	6	3	166	0	0	411	24
Subtotal	144	28	29	231	8	100	20	15	705	2	1	1,257	100
Percentage	11	2	2	18	1	8	2	1	55	1	1		
During employment													
Board Appointed	4	0	3	9	0	3	2	0	2	0	0	33	4
Settled	81	18	17	56	5	18	7	7	105	2	0	316	60
Dismissed or not pursued	23	4	3	9	0	9	3	0	28	0	0	79	15
Withdrawn	37	7	4	24	1	4	1	4	30	1	0	113	21
Subtotal	145	29	27	98	6	34	13	11	165	3	0	531	100
Percentage	27	5	5	18	1	6	2	2	31	1	1		
Total	347	78	65	393	17	183	44	42	964	7	2	2,143	

1. Citizenship, ancestry, place of origin
2. Only in employment
3. RBOSNG - Reprisal, breach of settlement, no grounds
4. Total does not include 245 sexual harassment complaints.

Table 6: Employment complaints closed by type of work, 1991/92

	Race or colour	Ethnic origin ¹	Creed	Sex & pregnancy	Sexual harassment	Sexual orientation	Age	Marital status	Family status	Handicap	Record of offences ²	RBOSNG ³	Total	Percentage (%)
Professional, managerial, technical	106	18	21	100	45	5	87	12	8	151	2	0	545	23
Sales	18	6	7	43	33	4	17	3	5	69	0	0	205	9
Clerical	48	13	8	103	58	1	18	9	14	138	0	0	410	17
Craft and forepersons	35	5	3	27	8	1	13	2	3	88	0	1	186	8
Operatives	32	9	9	9	10	1	9	2	1	106	1	0	189	8
Services	40	9	5	64	54	2	21	8	5	82	3	1	294	12
Labour, general	68	18	13	47	37	3	28	8	6	330	1	0	559	23
Total	347	78	66	393	245	17	183	44	42	964	7	2	2,380	100

1. Citizenship, ancestry, place of origin
2. Only in employment
3. RBOSNG — Reprisal, breach of settlement, no grounds

Table 7: Cases closed by type of industry, 1991/92



	Race or colour	Ethnic origin ¹	Creed	Sex & pregnancy	Sexual harassment	Sexual orientation	Age	Marital status	Family status	Handicap	Public Assistance ²	Record of offences ³	RBOsNG ⁴	Total ⁵	Percentage (%)
Natural resources	2	1	0	3	2	0	0	0	2	29	0	0	1	40	1
Manufacturing															
Metals, parts, machinery	24	7	6	19	7	0	18	1	1	66	0	0	4	163	1
Food, tobacco	10	2	2	11	4	1	2	1	0	38	0	0	3	71	
Wood, furniture, paper ⁸	1	1	10	5	0	3	1	2	42	0	1	0	0	137	
Automotive, aircraft	17	4	5	10	6	0	9	2	1	76	0	1	6	138	
Electrical	11	1	0	7	6	0	4	0	1	27	0	0	1	234	
Others	27	6	8	42	15	4	10	2	4	115	0	0	1	1	
Subtotal	97	21	22	99	43	5	46	7	9	364	0	2	15	730	23
Construction	2	2	1	3	3	0	5	2	0	22	0	0	0	40	1
Transportation, utilities & communication	15	4	1	11	7	0	2	1	2	48	0	0	1	92	3
Trade & retail	57	7	16	64	51	2	24	6	10	148	0	0	4	389	12
Finance, insurance & real estate	64	21	7	29	19	6	29	31	88	93	54	0	3	444	14
Community, business & personal services															
Schools, colleges, univ. ²⁷	9	5	20	9	1	39	4	0	37	0	0	1		217	
Medical	32	8	7	24	10	2	12	4	6	109	0	0	3	217	
Employ. agencies	5	3	0	4	0	0	4	1	1	4	0	0	0	217	
Hotels, restaurants	37	5	3	40	42	3	14	2	5	56	0	0	1	249	
Others	79	20	25	108	47	7	33	14	7	192	2	2	9	145	
Subtotal	180	45	40	196	108	13	102	25	19	398	2	2	14	1,144	36
Public administration	65	25	10	40	23	5	18	8	10	92	0	2	5	303	9
Unspecified	1	0	2	2	2	0	2	0	0	8	0	1	0	16	1
Total	483	125	102	444	268	31	221	61	140	1202	56	7	13	3,200	100

1. Citizenship, ancestry, place of origin

2. Record of Employment

3. Reprisal, breach of settlement, no grounds

4. Only in Employment

5. Total includes 88 Boards of Inquiry brought forward from 1990-1991.





OHRC offices

Eastern Region

Ottawa
255 Albert Street, 4th
Floor
K1P 6A9
Tel.: (613) 232-0489
1 (800) 661-0228
TDD: (613) 232-3909

Kingston
80 Queen Street, Suite
202
K7K 6W7
Tel.: (613) 548-6750
1 (800) 461-2958
TDD: (613) 267-5755

Hamilton/Niagara Region

Hamilton
110 King Street West,
Suite 310
L8P 4S6
Tel.: (416) 521-7870
1 (800) 668-9508
TDD: (416) 546-8278

St. Catharines
1 St. Paul Street,
Suite 603
L2R 7L4
Tel.: (416) 684-7406
1 (800) 263-4916

Headquarters

Toronto
400 University Avenue
M7A 2R9
Tel: (416) 314-4500 or
(416) 314-4600
TDD: (416) 314-4535

Northern Region

Kenora
227 2nd Street South,
3rd Floor
P9N 1G1
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Sudbury
199 Larch Street, 6th
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Tel.: (705) 675-4455
1 (800) 461-4000
TDD: (705) 675-6392

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390 Bay Street, 3rd
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Tel.: (705) 942-8417
1 (800) 461-0551

Thunder Bay
28 North Cumberland
Street, Suite 403
P7A 4K9
Tel.: (807) 343-6003
1 (800) 465-8996

Timmins
210 Spruce Street S.,
Suite 103
P4M 2M5
Tel.: (705) 268-2838
1 (800) 461-7863

Southwest Region

Kitchener
824 King Street West,
4th Floor
N2G 1G1
Tel.: (519) 570-9622
1 (800) 263-9525

London
231 Dundas Street,
Suite 303
N6A 1H1
Tel.: (519) 661-6600
1 (800) 268-8333
TDD: (519) 661-0544

Windsor
500 Ouellette Avenue,
Suite 305
N9A 1B3
Tel.: (519) 256-8278
1 (800) 265-5140
TDD: (519) 256-4410

Toronto East Region

Scarborough
2500 Lawrence Avenue
East, 2nd Floor
M1P 2R7
Tel.: (416) 750-3575
1 (800) 268-6585
TDD: (416) 750-3302

Toronto Central Region

Toronto
595 Bay Street, 4th
Floor
M5G 2C2
Tel.: (416) 326-9511
TDD: (416) 326-9669

Toronto West Region

Mississauga
1290 Central Parkway,
3rd Floor
L5C 4R3
Tel.: (416) 273-7811
1 (800) 268-2808
TDD: (416) 273-6648

A plain language guide to making a human rights complaint



The Informal Settlement

- Step 1** Try to write a complete description of how you have been discriminated against or harassed. Include who was involved and when the discrimination happened.
- Step 2** Call or write to the Human Rights Commission and give us the details of your discrimination.
- Step 3** We will contact the person or company you are complaining about and discuss the information that you have given to us. (The person or company you are complaining about is called the *respondent*.)
- Step 4** Talking with the person you are complaining about often settles the problem. If it does not, you can file a formal complaint.

The Formal Complaint

- Step 5** You sit down with a human rights officer and fill out a form describing your complaint.
- Step 6** We study your complaint. You and the person you are complaining about may come to a meeting with us and try to solve the problem.
- Step 7** If a meeting solves the problem, the settlement is put in writing and you and the person you are complaining about sign it. If a settlement is not reached, we will investigate your complaint.
- Step 8** We investigate your complaint fully by looking at any documents that apply to your case and talking with people who know about your situation. We have a meeting with you and the person you are complaining about, give the results of the investigation and try to reach a settlement.
- Step 9** If you reach a settlement, the Commissioners may approve it. If you do not reach a settlement, the Commissioners make the final decision on your case. They might set up a Board of Inquiry to look into your complaint.
- Step 10** If you are unhappy with the decision of the Commissioners you can ask them to look at your case again. If you are unhappy with the decision of the Board of Inquiry, you can appeal it in court.



List of publications

Human Rights Code, 1981 (available from the Government of Ontario Bookstore)
Employment Application Forms & Interviews
Human Rights in Employment
Guidelines for Assessing Accommodation Requirements for Persons with Disabilities (brochure)
Accommodation of Persons with Disabilities (pamphlet)
Human Rights and Sexual Harassment
OHRC Policy Statement on HIV/AIDS Related Discrimination
Exception to the Equality Rights Provision of HR Code in the Workplace
Policy on Racial Slurs & Harassment & Racial Jokes (brochure)
Racial Slurs & Harassment & Racial Jokes (pamphlet)
OHRC Policy Statement on Height and Weight Requirements
Annual Report
Policy on Drug and Alcohol Testing
Policy on Driver's Licence as a Condition of Employment
Policy on Employment Related Medical Information
Declaration of Management Policy (poster)
Guidelines on Special Programs
If You Have a Human Rights Complaint
Know Your Rights Series:

- *Sexual Orientation and the HR Code*
- *AIDS & AIDS-Related Illness and the HR Code*

Human Rights in Ontario
Discrimination Because of Handicap

Guidelines for Internal Human Rights Complaint Resolution Procedures
Policy Statement with Respect to Exclusionary Scholarships

All publications are available in:

- French and English (all formats),
- IBM-compatible computer diskettes,
- audio tape,
- large print,
- spiral-bound versions and
- other languages upon request.

For orders, please contact:

**Ontario Human Rights Commission
Communications & Education Unit
400 University Avenue, 12th Floor
Toronto, ON M7A 2R9
Telephone: (416) 314-4526**

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Ontario Human Rights Commission



Annual Report
1992-1993

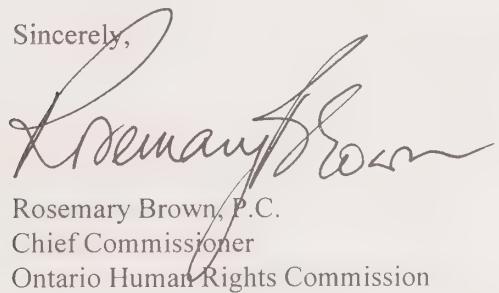
January 5, 1995

The Honourable Elaine Ziemb
Minister of Citizenship and Responsibility
for Human Rights, Disability Issues,
Seniors Issues and Race Relations
77 Bloor Street West
5th Floor
Toronto, Ontario
M7A 2R9

Dear Minister:

As required under section 31(1) of the Ontario *Human Rights Code*, please find enclosed a report on the activities of the Ontario Human Rights Commission for the fiscal year 1992/1993.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Brown".

Rosemary Brown, P.C.
Chief Commissioner
Ontario Human Rights Commission

Ontario Human Rights Commission

Annual Report 1992–1993

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Introduction

The ongoing definition and enforcement of human rights are amongst the most crucial obligations of a just, diverse, and honourable society. Since its creation in 1962, the Ontario Human Rights Commission has been accountable for ensuring that Ontario's commitment to human rights is fulfilled in a reasonable, unbiased, and effective manner.

Charged with this responsibility, the Commission itself continually has had to evolve and reflect these goals in its own operations and in the development of human rights in Ontario. In the 1992/93 fiscal year, the Commission's continued evolution was affected by significant changes in leadership and key improvements in the agency's efficiency and effectiveness.

Leadership

Ms. Catherine Frazee's term as Chief Commissioner ended in September 1992, after three years as Chief Commissioner and four years as a Commissioner.

Ms. Frazee's ability to take human rights into every sector of society, her ability to heal, inspire, and challenge, provided the motivating force for much of the agency's work. She was a dynamic and dedicated leader of both the Commission and the staff of the Commission.

Subsequent to Ms. Frazee's departure, Vice-Chair Fran Endicott was appointed Chief Commissioner in September 1992. A well-respected human rights advocate and a Commissioner since 1991, Ms. Endicott declared from the outset that she intended to be a "clear, loud, firm—and maybe unpleasant—advocate for human rights." Ms. Endicott's tenure as Chief Commissioner ended tragically with her death on November 10, 1992.

Notwithstanding her brief term as Chief Commissioner, Ms. Endicott's imagination, creativity and realism allowed her to lead the Commission with conviction in such areas as strategic planning, organizational health, and anti-racism.

The late Fran Endicott was succeeded by Mr. Alok Mukherjee, who served as

Acting Chief Commissioner from November 1992 to June 1993. Mr. Mukherjee led the Commission through its period of mourning with an unerring sense of humanity, proportion, and hope.

In other areas, Commissioner David Philpott completed his term of office and Commissioner Jerry Woods resigned. Subsequently, the Lieutenant Governor in Council appointed Mr. Robert Milbourne and Mr. Richard Miles to the Commission in July 1992 and Mr. Tom Warner in February 1993.

With respect to the staff of the Commission, Ms. Lesley Lewis left her position as Executive Director in October 1992. Under her guidance, the staff of the Commission undertook several important measures intended to improve the overall efficiency and effectiveness of the agency.

In January, 1993 Mr. D. Scott Campbell was appointed Executive Director of the Commission. A senior and seasoned public administrator, Mr. Campbell moved with deliberate speed to assess and complete the implementation of projects already underway and to develop a series of integrated, comprehensive reforms in the operations and administration of the Commission.

Efficiency

In September 1991, the Minister of Citizenship had announced the Ontario government's one-time allocation of \$6 million. These funds were targeted to address all cases in the agency's caseload

which were over six months old, implement a program to improve organizational health and effectiveness, and make the Commission an effective anti-racist organization.

Caseload Reduction Task Force

The Caseload Reduction Task Force was created in 1991 in order to address in one year, approximately 1,000 of the Commission's oldest and most complex cases. The Task Force consisted of 52 persons, grouped into innovative teams of investigators and lawyers.

This initiative brought with it the added benefit of removing much of the weight of older cases from the Commission's regional offices, allowing them to concentrate on addressing cases which were already under investigation or which had been with the Commission for six months or less.

The Task Force completed its term in December, 1992; thereafter, a small group

of its staff continued to address cases which required further attention until March 31st 1993. At that date, 830 (70 percent) of the assigned cases were successfully closed. Another 64 were defined as having "work completed," but were awaiting Commission decision.

Cases which remained outstanding at the conclusion of the Task Force were returned to all of the Commission's regional offices, with the exception of the Toronto Central Region, and assigned for immediate investigation. The Toronto Central Region, one of the Commission's busiest, was allocated five additional staff persons to address a high volume of complex cases.

Organizational Health and Effectiveness

The Organizational Health and Effectiveness Committee (OHEC) was created to determine areas of weakness in the organizational structure, to assess the needs of staff, and to develop strategies for improving the overall health and well-being of the Commission.

The Committee's expressed goal was to effect a "transformation [of the Commission] from a disparate group of individuals to an effective working team; from colleagues who started with particular skill sets and isolated reference points, to partners with new skills and a broader, more unified organizational vision."

The Committee was chaired by two directors and was comprised of a Commissioner and staff from all levels of the organization.

Creating the OHEC committee was a significant initiative for the Commission. Staff, through an extensive questionnaire and a series of meetings with the Committee, had an opportunity to share their concerns about the organization and its corporate culture. They also proposed solutions to problems and suggestions for improvement.

A report outlining broad recommendations for change was submitted to the Commission in January 1993.

Anti-Racism

The Commission's anti-racism initiative was a feature of its effort to become a model employer. Upon review of the Commission's workplace, specific systemic barriers to equality were identified and targeted for removal.

Accordingly, an internal anti-racism advisory committee was created. The

committee was responsible for developing and recommending to the Commission's Senior Management Committee an anti-racism strategy which would eliminate from the policies or operations of the agency any manifestation of racism.

By the end of March 1993, after extensive consultation with staff, a draft anti-racism strategy was formulated.

Effectiveness

The essential function of the Commission is defined in Section 29(a) of the *Code*, which requires the Commission:

to forward the policy that the dignity and worth of every person be recognized and that equal rights and opportunities be provided without discrimination that is contrary to law[.]

This imposes upon the Commission a mandate which is more diverse than its strict duty to receive and address formal complaints under the *Human Rights Code* in a timely, just, and rigorous manner.

It gives the Commission an obligation to undertake proactive action such as public education, the review of special programs intended to achieve equality for the members of disadvantaged groups, and the examination of statutes and public policies which appear to be inconsistent with the *Code*.

In assessing the effectiveness of the Commission in the fiscal year 1992–1993, it is necessary to consider the ability of the agency to balance and address its various functions under the *Code*.

Enforcement

In 1992–1993, the Commission received 2,317 complaints of discrimination under the *Human Rights Code*, closing a total of 2,659.

Although the staff of the Commission were able to reduce the agency's overall caseload, their ability to resolve cases quickly was continuously challenged by the increasing volume and complexity of new complaints. For example, inquiries to the Commission's offices soared to 116,308 from 92,000 the previous year. Moreover, the staff of the Commission referred a total of 29,000 inquiries to other agencies in the 1992–1993 fiscal year.

The following are the main highlights of the Commission's case-related activity:

- 54% of all cases were resolved within six months. The overwhelming majority of these were Early Settlement Initiatives, and as such were concluded informally within two months of the complainants' first contact with the Commission;

- the Commission requested that the Minister of Citizenship appoint more than 200 Boards of Inquiry;
- the number of complaints received on the ground of race increased from 22 percent of all complaints in 1991–1992, to 25 percent in 1992–1993; those on the ground of sex increased to nearly 17 percent from 15 percent the previous year;
- at the same time, the number of complaints filed on the ground of handicap decreased from 32 percent to 24 percent of all complaints;
- the number of requests for reconsideration of the Commission's dismissal of cases increased by 36, bringing the total to close to 250;
- the Caseload Reduction Task Force closed 830 cases.

Public Education

The Commission's public education activities for the fiscal year 1992–1993 allowed the agency contact with several key sectors of Ontario's diverse society. The Commission's work in this regard involved presentations to municipal governments, such as the City of Thunder Bay, and to schools, including Brock University and Algoma University College. The Commission's meetings with groups such as the Urban Aboriginal Alliance, and with employers in the Kingston area, signify the ways in which the agency has attempted to make its

expertise in human rights accessible and relevant.

The Commission continued to contribute to the development of human rights in Canada as a whole, formally through its participation in the Canadian Association of Statutory Human Rights Agencies, and informally through meetings with staff of other human rights agencies. This dimension of the Commission's public education activity also included presentations on the subject of hate crimes and the law to a symposium in Vancouver.

Special Programs

Section 14 of the *Human Rights Code* empowers the Commission to determine whether a policy which would otherwise infringe rights under the *Code* is in fact a special program designed to relieve hardship or foster equal opportunity for disadvantaged groups.

This mandate enabled the Commission to honour the City of Ottawa's request for assistance in the development of the City's *Employment Equity Workplan*. The staff of the Commission provided a comprehensive review of the Workplan and made recommendations for adjustments.

The staff of the Commission also continued into the second phase of their consultations with the Ontario College of Art. The College is implementing an employment equity program in order to eliminate barriers in the hiring and promotion of women. In the first phase of the program, the Commission exercised its authority under Section 14 (2)(e) of the *Human Rights Code* and determined that the College's intention to recruit women for employment did not breach the provisions of the *Code*.

In other developments, the Commission

announced in March, 1993 its intention to offer assistance to the City of Toronto in the development of an employment equity program for hiring firefighters from designated groups. Subsequently, the staff of the Commission participated in consultations with City officials to discuss a course of action which would best serve the letter and the spirit of the *Human Rights Code*.

The staff of the Commission were also consulted during the development of anti-discrimination policies by agencies such as:

- the Ministry of Education on integrated education for persons with disabilities;
- the Working Group on Educational Issues of the Coalition for Lesbian and Gay Rights in Ontario; and by
- employers such as Westbury Howard Johnson Hotel, Motorola Canada Ltd., the University of Western Ontario, Haldimand-Norfolk Adult Mental Health Services, and the Fort Francis/Rainy River School District.

Public Policy

The *Human Rights Code* requires the province's statutes, laws and policies to reflect and remain consistent with the intent of the *Code*. The Commission exercised its mandate in this regard by:

- advocating that the Ministry of Labour change the *Employment Agencies Act* in order to ensure equal opportunities for designated group members;
- requesting that the Premier and the Attorney General review all statutes that did not comply with the decision of an Ontario Board of Inquiry, which required employers to extend employment benefits to the conjugal partners of gay and lesbian employees;
- participating in the Ministry of the Attorney General's review of the jury selection process to identify barriers to equal participation on juries by members of disadvantaged groups;
- participating on an inter-ministerial government committee in its assessment of the impact of legislation, such as the *Occupational Health and Safety Act*, upon those who observe the Sikh faith.

In other developments, the Commission secured an agreement with the Ministry of the Attorney General and the Ministry of

Government Services, to provide persons with disabilities better access to court houses and services of the judicial system.

The Ministries agreed to create a special telephone information system for the deaf and hard of hearing and to take other steps such as ensuring physical accessibility in the renovation and construction of court houses. The Ministries also agreed to consult with groups representing persons with disabilities to determine their needs and to brief legal and judicial bodies on the needs of persons with disabilities.

Pursuant to its mandate under the *Human Rights Code*, the Commission conducts its own research, geared to enriching its capacity to apply the full scope of the *Code* to a variety of social issues. This activity has allowed the Commission to:

- make recommendations to the government's *Code Review Task Force* concerning improvements to the enforcement of human rights in Ontario;
- endorse the Stephen Lewis action plan for improving race relations; and
- call for public support of employment equity legislation.

Key Cases

Boards of Inquiry 1992–1993

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Boards of Inquiry 1992–1993

Board Decisions (Final)

Age

- *Allen McKee v. Hayes-Dayna Inc., R.O. Mossberger and Jack Yates*

Age; Harassment; Sexual Solicitation

- *Dayna Daccash v. Paul Richards and Studio Ten:Ten*

Handicap

- *Diane Bielecky v. Young, MacNamara and Chris Young*
- *Jacqueline Black v. Gaines Pet Foods and Bill Gerber*
- *Jo-Anne Yale v. Sam Metropoulos and Helena Metropoulos*
- *Mr. Ian Charles Yeomans and Mr. Ross Gerald Cook v. City of Ottawa et al.*
- *Myrna Marzano v. Nathar Ltd. and Nathan Langburt*
- *Stefan (Dimitrov) Kolev v. McDonnell Douglas Canada Ltd. and Harry Buchmueller*

Handicap; Harassment

- *Ashit Kumar Ghosh v. Domglas Inc., Charles Fox, David Harrison, William Forrest and Ken Van Vliet*

Handicap; Reprisal

- *Wilma Munsch v. York Condominium Corp, No. 60, Nick Bongiovanni and Ivan Filipovic and Vince Cianfarani*

Handicap; Sexual Orientation

- *Gary Thornton v. North American Life Assurance Company and Clarendon Foundation*
- *Gary Thornton v. North American Life Assurance Company, First North American Insurance Company*

Boards of Inquiry 1992–1993

Board Decisions (Final)

Marital Status

- *Kelly Parks v. Christian Horizons and Lorraine Duran, and Holly MacIntyre v. Christian Horizons and Isobel Hudson*

Sex

- *Laura J. Cunningham v. Royal Canadian Legion Branch 594, Bill De Hart and Larry Fairbrother*
- *Sheelagh Conway v. Roman Koslowski*
- *Sylvie Rodley v. Federated Building Maintenance Company Limited*

Sex; Sexual Solicitation

- *Lee Ann Bruce and Darlene Jackson v. McGuire Truck Stop*

Sexual Harassment

- *Ms. Maria Aguiar v. Basonje Systems and James Kan*
- *Tracy Lampman v. Photoflair Ltd. and Mr. Roy Smith*

Sexual Orientation

- *Jan Waterman v. The National Life Assurance Company of Canada*
- *Michael Leshner v. Her Majesty the Queen in Right of Ontario and the Ministry of the Attorney General*

Race

- *Dr. Arnold Itwaru v. York University, Faculty of Arts and Professor Jack Craig*
- *Duane Baptiste v. Napanee and District Rod & Gun Club*

Boards of Inquiry 1992–1993

Settlements

Age

- *Allen Robert McKee v. Hayes-Dayna Inc.*

Family Status

- *Jerry Birch v. Old School Apartments et al.*
- *Norman Lee v. Silverspring Ltd. and R. Clark and Joyce Mitchell*
- *Susan Lehman v. Hallman Property Management*

Family Status; Marital Status

- *Guy Tessier and Mireille Tessier and Pierre Tessier v. Productions Marc (1986) Ltée. (Productions Marc)*

Family Status; Marital Status; Race

- *Myrledeen Smith v. Antonia Sgro*

Handicap

- *David C. Kavanagh v. Atlantic Packaging Products Ltd. and John Lang*
- *David Morgoch v. City of Ottawa*
- *Gurbax Sandhu v. Polytech Coatings and Rick Turner*
- *James L. Warren v. Allstate Life Insurance Company of Canada et al.*
- *John Alexander Coubrough v. Brantford Police Services Board*
- *Marguerite Constable v. Loyalist College of Applied Arts and Technology*
- *OHRC and Ron Smith, Dan Cann, Kris Wickens, Theresa Quinn, Ian Jarvis, Anke Eggers, Wayne Acheson and Krystal Keller v. Wasaga 500 G-Karts and Robert Croll and 5994499 Ontario Limited (carrying on business as Blue Mountain Go-Karts) and J. H. Reid*
- *Robert (Sandy) Clarke v. Stelco Fastener and Forging Company*
- *Terrence R. Wagner v. Regional Municipality of York and Joanne Simmons*
- *Timothy Charles Slater v. Consolidated Bathurst Inc., Mr. Robert Verch and Mr. Newman*

Boards of Inquiry 1992–1993

Settlements

Sex

- *Lisa J. Hirniak v. Bugsy's Dining Lounge Inc., Brian Baker and Ted Bicholson*
- *LuLu Hall v. Insta-Print Centre Ltd.*
- *Richard St. Onge v. The Great Atlantic and Pacific Company of Canada Ltd. (A&P)*
- *Therese Rose-Michniak v. Re/Max Apple Realty Ltd.*
- *Yvonne Robbins (nee Hain) v. A.B.S. Reprographics (Kitchener) Inc. (carrying on business as Kwik Kopy Printing) and Larry Tales*

Sex; Harassment; Sexual Solicitation; Reprisal

- *Patricia Xazandroulis v. A. Den-Ouden's Carpentry and Millwork, Abraham Den-Ouden and Ted Adam*
- *Shelly-Anne Moir v. Ladde Textiles Inc. and Laurie Dore*

Sex; Sexual Solicitation

- *Sherrie Whitworth v. Robert Cowling and Rightway-A-Plus-One*

Race

- *OHRC and Edwin Yee v. Mona Labib and 373041 Ontario Limited and Susan Fuller*
- *Parviz Mirbashi v. The Lennox and Addington County Board of Education and Sheridan*
- *Tina Hurst v. Sears Canada Inc.*

Boards of Inquiry 1992–1993

Divisional Court

Age

- *Albert Large v. The Corporation of the City of Stratford, Stratford Police Department and Board of Police Commissioners*
- *Ontario Hydro et al. v. The Ontario Human Rights Commission, et al.*
- *Ontario Hydro v. The Ontario Human Rights Commission (C. Stanton Stevenson)*
- *Ontario Hydro v. The Ontario Human Rights Commission*

Handicap

- *Brantford Police Service Board v. The Ontario Human Rights Commission and John Alexander Coubrough*

Harassment; Sexual Harassment

- *Ontario College of Art and Jan Van Kampen v. The Ontario Human Rights Commission*

Race

- *Jeremy Hancock v. Alan Shreve and The Ontario Human Rights Commission etc.*
- *Ontario College of Art and Jan Van Kampen v. The Ontario Human Rights Commission (Khaletun Majumder)*
- *The Cumis Group Limited v. The Ontario Human Rights Commission (McMorris)*
- *The Cumis Group Limited/Le Groupe Cumis Limitée v. The Ontario Human Rights Commission*

Sex

- *The Great Atlantic & Pacific Company of Canada, Limited v. Her Majesty the Queen in Right of Ontario as represented by the Minister of Citizenship, Ontario Human Rights Commission, Constance Backhouse, United Food and Commercial Food Workers International Union, Locals 175 and 633, Steinberg Inc. and Diane Gale*

Boards of Inquiry 1992–1993

Court of Appeal

Marital Status

- *The Ontario Human Rights Commission v. London Monenco Consultants Limited, Monenco Engineers and Constructions Inc., W. P. London and Associates Limited, Thomas Geiger, and Bob Barboutsis*

Boards of Inquiry 1992–1993

Supreme Court

Age

- *Zurich Insurance Co. v. Ontario (Human Rights Commission)*
(sub nom. *Bates v. Zurich Insurance Co. of Canada*)

Marital Status

- *London Monenco Consultants Limited, Monenco Consultants Limited, Monenco Engineers and Constructions Inc. and W. P. London and Associates Limited v. The Ontario Human Rights Commission (Ont.)* (23248)

Appendices

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List of Commissioners

DEVINS, Reva	February 19, 1987	–	May 18, 1993
LENKINSKI, Louis	July 16, 1987	–	February 18, 1995
MILES, Richard	July 22, 1992	–	February 18, 1998
MILBOURNE, Robert	July 22, 1992	–	February 18, 1998
MUKHERJEE, Alok	April 1, 1987	–	May 11, 1994
PAQUETTE, Carmen	June 6, 1991	–	February 18, 1994
PHARAND, Gaetane	June 6, 1991	–	February 18, 1997
PHILPOTT, David	March 10, 1989	–	June 18, 1992
WARNER, Tom	February 3, 1993	–	February 18, 1996
WHARTON, St. Clair	June 6, 1991	–	February 18, 1997
WOODS, Jerry	June 6, 1991	–	January, 1992

Organizational Chart



Commission Offices

Hamilton

110 King Street West
Suite 310
L8P 4S6
Tel: (905) 521-7870
1-800-263-9344
TDD: (905) 546-8278

Kenora

227 2nd Street South
3rd Floor
P9N 1G1
Tel: (807) 468-2866

Kingston

80 Queen Street
Suite 202
K7K 6W7
Tel: (613) 548-6750
1-800-461-2958
TDD: (800) 267-5755

Kitchener

824 King Street West
Suite 101
N2G 1G1
Tel: (519) 571-6078
1-800-263-9525

London

231 Dundas Street
Suite 303
N6A 1H1
Tel: (519) 661-6600
1-800-268-8333
TDD: (519) 661-0544

Mississauga

1290 Central Parkway West
Suite 304
L5C 4R3
Tel: (905) 273-7811
1-800-268-2808
TDD: (905) 273-6648

Ottawa

255 Albert Street
Suite 401
K1P 6A9
Tel: (613) 232-0489
1-800-661-0228
TDD: (613) 232-3909

Sault Ste. Marie

390 Bay Street
3rd Floor
P6A 1X2
Tel: (705) 942-8417
1-800-461-0051

Scarborough

10 Milner Business Court
Suite 404
M1B 3C6
Tel: (416) 314-3555
1-800-268-6585
TDD: (416) 314-3572

St. Catharines

1 St. Paul Street
Suite 603
L2R 7L4
Tel: (905) 684-7406
1-800-263-4916

TDD (905) 684-1103

Sudbury

159 Cedar Street
2nd Floor
P3E 6A5
Tel: (705) 670-7222
1-800-461-6259

TDD: (705) 675-6392

Thunder Bay

28 North Cumberland St.
Suite 403
P7A 4K9
Tel: (807) 343-6003
1-800-465-8996

Timmins

210 Spruce St. South
Suite 103
P4N 2M5
Tel: (705) 268-2838
1-800-461-7863

Toronto Central

595 Bay Street
4th Floor
M5G 2C2
Tel: (416) 326-9511
TDD: (416) 326-9669

Windsor

215 Eugenie Street West
Suite 100
N8X 2X7
Tel: (519) 973-1370
1-800-263-1604
TDD: (519) 966-8237

Headquarters

400 University Avenue
Toronto, Ontario
M7A 2R9
Tel: (416) 314-4500
1-800-387-9080
TDD: (416) 314-4535

Toll-Free Long Distance: If you are outside the local area and within the area code, call the number listed under 1-800

Libraries Where Board Decisions Can Be Found

University of Toronto
Bora Laskin Library
78 Queen's Park
Toronto, Ontario
M5S 2C5

York University
Law Library
4700 Keele Street
Downsview, Ontario
M3J 2R5

Legislative Library
Legislative Building
3rd Floor, North Wing
Queen's Park
Toronto, Ontario
M7A 1A9

The Great Library
Osgoode Hall
The Law Society of
Upper Canada
130 Queen Street West
Toronto, Ontario
M5H 2N6

Ministry of Labour
Library
400 University Avenue
10th Floor
Toronto, Ontario
M7A 2R9

Metropolitan Toronto
Reference Library
789 Yonge Street
Toronto, Ontario
M4W 2G8

University of Ottawa
550 Cumberland Street
Ottawa, Ontario
K1N 6N5

Carleton University
Ottawa, Ontario
K1S 5B6

Brock University
500 Glenridge Avenue
St. Catharines, Ontario
L2S 3A1

University of Waterloo
200 University Avenue west
Waterloo, Ontario
N2L 3G1

University of Western
Ontario
London, Ontario
N6A 3K7

Queens University
Kingston, Ontario
K7L 3N6

McMaster University
Hamilton, Ontario
L8S 4L8

University of Windsor
401 Sunset Avenue
Windsor, Ontario
N9B 3P4

Lakehead University
Oliver Road
Thunder Bay, Ontario
P7B 5E1

Libraries Where Board Decisions Can Be Found

Laurentian University

Sudbury, Ontario
P3E 2C6

Library of Parliament

Wellington Street
Parliament Hill,
Central Block
Ottawa, Ontario
K1A 0A9

University of Ottawa

Human Rights Research
and Education Centre
57 Louis Pasteur
Ottawa, Ontario
K1N 6N5

Hamilton Public

Library
55 York Blvd.
Hamilton, Ontario
L8N 4E4

Kingston Public

Library
130 Johnson Street
Kingston, Ontario
K7L 1X8

Kitchener Public

Library
85 Queen Street North
Kitchener, Ontario
N2H 2H1

London Public Library

305 Queens Avenue
London, Ontario
N6B 3L7

Ottawa Public Library

120 Metcalfe Street
Ottawa, Ontario
K1P 5M2

St. Catharines Public

Library
54 Church Street
St. Catharines, Ontario
L2R 7K2

Thunder Bay Public

Library
285 Red River Road
Thunder Bay, Ontario
P7B 1A9

Waterloo Public

Library
35 Albert Street
Waterloo, Ontario
N2L 5E2

Windsor Public Library

850 Ouellette Avenue
Windsor, Ontario
N9A 4M9

Table 1:
Complaints by region of registration & ground, 1992/1993

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offence ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE
EASTERN	44	26	4	52	23	15	23	10	10	72	18	-	4	3	-	304	13
HAMILTON/NIAGARA	27	15	4	79	37	6	31	14	18	76	11	-	6	-	-	324	14
NORTHERN	48	7	5	66	19	5	16	19	15	73	13	-	2	-	-	288	12
SOUTHWESTERN	44	12	7	41	56	5	19	2	7	86	2	1	5	-	-	287	12
TORONTO CENTRAL	129	14	18	44	40	15	27	8	11	76	12	1	16	1	2	414	18
TORONTO EAST	79	17	6	57	26	7	16	7	16	88	10	-	5	-	-	334	14
TORONTO WEST	103	23	7	53	44	2	24	4	3	87	4	-	12	-	-	366	16
TOTAL	474	114	51	392	245	55	156	64	80	558	70	2	50	4	2	2317	100
PERCENTAGE(%)	20	5	2	17	11	2	7	3	3	24	3	0	2	0	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

Table 2:
Complaints received by ground & provision, 1992/93

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offence ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE
SERVICES	89	21	10	31	-	29	9	7	11	98	-	-	-	1	-	306	13
HOUSING	32	9	5	8	8	5	11	18	39	31	70	-	-	1	-	237	10
CONTRACTS	1	1	-	1	-	-	-	-	1	1	-	-	-	-	-	5	0
EMPLOYMENT	347	80	35	335	237	21	135	37	29	428	-	2	-	2	-	1688	73
VOCATIONAL ASSOCIATION	5	3	1	17	-	-	1	2	-	-	-	-	-	-	-	29	1
REPRISAL	-	-	-	-	-	-	-	-	-	-	-	-	50	-	-	50	2
BREACH OF SETTLEMENT	-	-	-	-	-	-	-	-	-	-	-	-	-	2	-	2	0
TOTAL	474	114	51	393	245	55	156	64	80	558	70	2	50	4	2	2317	100
PERCENTAGE(%)	20	5	2	17	11	2	7	3	3	24	3	0	2	0	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

Table 3:
Settlements effected by ground, 1992/93

	\$ Specific & General Damages	Complainants Receiving Damages	Offer of Job or Facility	Offer of or Consideration for Next Job or Facility	Affirmative Action Implemented	Seminars with Respondent Staff	Review of Policies or Documents	Issuance or Correction of References	Letter of Apology to Complainant	Written Declaration of Management Policies
RACE/COLOUR	\$421,903	71	36	24	5	40	42	23	65	144
ETHNIC ORIGIN ¹	\$28,727	9	8	6	-	4	15	4	12	18
CREED	\$74,912	15	6	-	2	3	15	7	8	22
SEX & PREGNANCY	\$268,536	97	25	16	2	17	43	23	35	104
SEXUAL HARASSMENT	\$373,044	95	10	2	3	37	50	21	44	88
SEXUAL ORIENTATION	\$20,009	10	6	1	-	-	9	-	5	14
AGE	\$86,899	23	9	8	-	3	27	1	11	33
MARITAL STATUS	\$28,480	13	7	1	-	3	14	2	4	10
FAMILY STATUS	\$9,949	8	11	3	-	4	25	-	12	19
HANDICAP	\$422,154	129	98	19	2	28	69	26	46	134
RECEIPT OF PUBLIC ASSISTANCE ²	\$2,300	6	8	5	-	1	9	-	4	12
OTHERS	\$9,000	3	4	1	1	6	6	2	1	10
TOTAL	\$1,745,913	479	228	86	15	146	324	109	247	608

1. Citizenship, ancestry, place of origin

2. Only in accommodation

Table 4:
Complaints closed by disposition, 1992/93

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance	Record of Offence ²	RBOSNG ³	TOTAL	PERCENTAGE
EMPLOYMENT															
Board Appointed	27	3	4	22	30	4	5	2	1	29	-	-	-	127	6
Settled	172	30	33	196	147	12	64	22	12	240	-	1	1	930	48
Dismissed or not pursued	48	14	5	24	10	-	25	4	1	80	-	-	-	211	11
Withdrawn	113	35	13	135	70	19	52	13	8	229	-	1	1	689	35
TOTAL	360	82	55	377	257	35	146	41	22	578	-	2	2	1957	100
ACCOMMODATION															
Board Appointed	8	1	-	2	-	-	3	2	14	4	3	-	-	37	12
Settled	28	4	3	7	7	4	6	9	32	20	36	-	-	156	50
Dismissed or not pursued	-	-	-	-	-	-	-	1	5	2	2	-	2	12	4
Withdrawn	20	7	2	4	2	2	8	5	23	11	24	-	-	108	35
TOTAL	56	12	5	13	9	6	17	17	74	37	65	-	2	313	100
SERVICES															
Board Appointed	2	-	-	8	-	7	-	-	-	13	-	-	-	30	9
Settled	36	11	4	11	-	12	7	2	7	67	-	-	-	157	48
Dismissed or not pursued	6	3	1	3	-	-	1	1	1	14	-	-	1	31	9
Withdrawn	34	6	5	14	-	8	4	6	2	33	-	-	-	112	34
TOTAL	78	20	10	36	-	27	12	9	10	127	-	-	1	330	100
CONTRACTS, VOCATIONAL ASSOCIATIONS, REPRISALS, BREACH OF SETTLEMENTS															
Board Appointed	-	-	-	-	-	-	1	-	-	-	-	-	7	8	14
Settled	3	-	-	1	-	-	1	2	-	2	-	-	12	21	36
Dismissed or not pursued	1	-	-	-	-	-	1	-	-	-	-	-	5	7	12
Withdrawn	3	2	-	7	-	-	-	-	2	-	-	-	9	23	39
TOTAL	7	2	-	8	-	-	3	2	2	2	-	-	33	59	100

1. Citizenship, ancestry, place of origin

2. Only in employment

3. RBOSNG - Reprisal, Breach of Settlement, No Grounds

Table 5:
**Employment complaints closed by disposition & ground,
1992/93**

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences ²	RBOSNG ³	TOTAL	PERCENTAGE
RECRUITMENT & HIRING													
Board Appointed	-	-	1	3	-	1	2	-	3	-	-	10	3
Settled	28	5	5	30	3	31	3	6	40	-	-	151	52
Dismissed or not pursued	12	2	-	4	-	10	-	-	10	-	-	38	13
Withdrawn	15	4	2	20	3	16	5	2	22	-	1	90	31
SUBTOTAL	55	11	8	57	6	58	10	8	75	-	1	289	100
PERCENTAGE	19	4	3	20	2	20	3	3	26	-	0	100	
TERMINATION													
Board Appointed	12	2	2	13	-	2	-	1	20	-	-	52	6
Settled	71	10	17	103	2	22	12	3	141	1	-	382	41
Dismissed or not pursued	24	8	5	11	-	14	3	1	59	-	-	125	13
Withdrawn	67	22	7	76	3	31	6	6	160	1	-	379	40
SUBTOTAL	174	42	31	203	5	69	21	11	380	2	-	938	100
PERCENTAGE	19	4	3	22	1	7	2	1	41	0	-	100	
DURING EMPLOYMENT													
Board Appointed	15	1	1	6	4	2	-	-	6	-	-	35	7
Settled	73	15	11	63	7	11	7	3	59	-	1	250	53
Dismissed or not pursued	12	4	-	9	-	1	1	-	11	-	-	38	8
Withdrawn	31	9	4	39	13	5	2	-	47	-	-	150	32
SUBTOTAL	131	29	16	117	24	19	10	3	123	-	1	473	100
PERCENTAGE	28	6	3	25	5	4	2	1	26	-	0	100	
TOTAL	360	82	55	377	35	146	41	22	578	2	2	1700	

1. Citizenship, ancestry, place of origin

2. Only in employment

3. RBOSNG - Reprisal, Breach of Settlement, No Grounds

Table 6:
Employment complaints closed by type of work, 1992/93

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offence ²	RBOSNG ³	TOTAL	PERCENTAGE
Professional, Managerial, Technical	95	19	20	90	46	16	42	7	4	94	1	1	435	22
Sales	24	4	6	44	31	2	22	4	3	39	-	-	179	9
Clerical	38	11	8	95	71	4	15	12	3	84	1	-	342	17
Craft & Forepersons	39	9	4	20	12	1	12	2	1	55	-	-	155	8
Operatives	22	6	2	8	4	-	3	2	-	48	-	-	95	5
Services	49	14	5	57	58	6	19	6	3	57	-	-	274	14
Labour, General	93	19	10	63	35	6	33	8	8	201	-	1	477	24
TOTAL	360	82	55	377	257	35	146	41	22	578	2	2	1957	100

1. Citizenship, ancestry, place of origin

2. Record of employment

3. RBOSNG - Reprisal, Breach of Settlement, No Grounds

Table 7:

Cases closed by type of industry, 1992/93

	Race or Colour		Ethnic Origin ¹		Sex & Pregnancy		Sexual Harassment		Sexual Orientation		Age		Marital Status		Family Status		Handicap		Public Assistance ²		Record of Offence ³		RBOSNG ⁴		TOTAL	PERCENTAGE
NATURAL RESOURCES	3	1	-	3	3	-	2	-	-	14	-	-	-	-	-	-	-	-	-	-	1	27	1			
MANUFACTURING																										
Metals etc.	21	5	1	5	5	-	8	2	1	41	-	-	-	-	-	-	-	-	-	-	1	90				
Food etc.	9	2	1	9	3	1	5	-	1	20	-	-	-	-	-	-	-	-	-	-	-	51				
Wood etc.	8	-	-	8	6	1	3	1	-	18	-	-	-	-	-	-	-	-	-	-	1	46				
Auto etc.	10	5	3	14	2	1	3	-	1	28	-	-	-	-	-	-	-	-	-	-	3	70				
Electrical etc.	7	2	-	10	4	1	5	-	-	19	-	-	-	-	-	-	-	-	-	-	-	48				
Others	44	7	3	34	28	3	11	5	3	84	-	-	-	-	-	-	-	-	-	-	2	224				
Subtotal	99	21	8	80	48	7	35	8	6	210	0	0	7	529	20											
CONSTRUCTION	4	-	1	2	4	-	2	1	1	11	-	-	-	-	-	-	-	-	-	-	26	1				
TRANSPORTATION, UTILITIES & COMMUNICATION	11	6	1	9	7	1	5	2	1	26	-	-	-	-	-	-	-	-	-	-	1	70	3			
TRADE & RETAIL	67	9	15	79	39	3	27	10	3	83	-	-	-	-	-	-	-	-	-	-	3	338	13			
FINANCE, INSURANCE & REAL ESTATE	74	15	7	38	27	15	26	24	77	77	62	-	-	-	-	-	-	-	-	-	3	445	17			
COMMUNITY, BUSINESS & PERSONAL SERVICES																										
Schools etc.	34	14	9	13	8	2	11	-	2	38	-	-	-	-	-	-	-	-	-	-	2	133				
Medical etc.	56	6	3	33	13	11	8	5	3	69	-	-	-	-	-	-	-	-	-	-	7	214				
Employment agencies	3	2	-	4	1	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	12				
Hotels etc.	42	8	6	49	51	8	17	1	2	46	1	-	-	-	-	-	-	-	-	-	1	232				
Others	68	21	17	87	56	10	27	10	10	96	1	1	1	1	1	1	1	1	1	1	6	410				
Subtotal	203	51	35	186	129	31	63	16	17	251	2	1	16	1001	38											
PUBLIC ADMINISTRATION	40	13	3	37	9	11	18	8	3	72	1	1	1	7	223	8										
TOTAL	501	116	70	434	266	68	178	69	108	744	65	2	38	2659	100											

1. Citizenship, ancestry, place of origin

2. Only in employment

3. RBOSNG - Reprisal, Breach of Settlement, No Grounds

4. Only in Employment

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- AS6



ONTARIO HUMAN RIGHTS COMMISSION

ANNUAL REPORT
1993-94 AND 1994-95



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ANNUAL REPORT

1993-94

ONTARIO HUMAN RIGHTS COMMISSION
ANNUAL REPORT
1993-94 AND 1994-95

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May 16, 1996

Honourable Marilyn Mushinski
Minister of Citizenship, Culture and Recreation
6th Floor, 77 Bloor Street West
Toronto, Ontario
M7A 2R9

Dear Minister:

Pursuant to Section 31(1) of the Ontario *Human Rights Code*, it is my pleasure to provide to you the Annual Report of the Ontario Human Rights Commission for the fiscal year 1993-1994 for submission to the Legislative Assembly of Ontario.

This report reflects the activities of the Commission to March 31, 1994.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Brown".

Rosemary Brown, P.C.
Chief Commissioner

PREFACE

HUMAN DIGNITY HAS PRIMACY

THIS YEAR, the world celebrated the forty-fifth anniversary of the United Nations' Universal Declaration of Human Rights. At a global conference in Vienna, the representatives of almost two hundred nations came together to affirm the universality of human rights and the primacy of those rights as global standards. At the same time, parallel conferences were held by national human rights agencies to establish criteria for improving the effectiveness of human rights institutions in promoting human rights at the national level.

Closer to home, our commitment to the primacy of human dignity for all the people of this province is articulated through the *Human Rights Code*. In the businesses, schools and workplaces of Ontario, every person has the right to live and work without discrimination. In this important respect, the principles set out in the 1948 Universal Declaration of Human Rights find their expression in the *Human Rights Code*.

For this reason, the *Human Rights Code* is more than just a provincial statute. It is a touchstone to guide our interpretation of other laws. In the language of the courts, the *Human Rights Code* has quasi-constitutional status that gives it primacy over other provincial laws. This means that the rights protected by the *Code* are safeguarded by more than lofty principles. It means that each person has the right to equal treatment without discrimination in all matters falling within provincial jurisdiction.

As the largest and most diverse province in Canada, Ontario boasts a vibrant, multicultural society. The differences and interests that make us who we are and that enrich our sense of community also provide us with the challenge of learning how to live together peacefully and productively. The mandate of the Ontario Human Rights Commission therefore includes the roles of consensus-building and public education in order to promote an understanding and acceptance of the principles set out in the *Human Rights Code*. The Commission's mandate also includes its most visible function, namely the resolution of complaints. In 1993, the Commission's resources were directed more strongly than ever towards the fair and timely resolution of human rights complaints.

PUBLIC SERVICE DEMANDS EFFECTIVE USE OF PUBLIC RESOURCES

One of the imperatives of our times is that we use public resources in a reasonable and sustainable manner that is cost-effective, responsive and inclusive. Today, more than ever, public sector agencies throughout the country are being challenged to become more

effective through sound and inventive reforms. Timely access to justice also demands efficiency and impartiality. These are the challenges that we must meet if we are to remain a just society.

For many years, various strategies have been proposed and implemented to achieve these goals in the Commission. However, we recognize that many of the challenges which confront us are not amenable to instant solutions. The Commission has responded to these challenges through a program of comprehensive renewal, working from the inside out to effect tangible improvements in the way we conduct our business. I am pleased to report that eight completely integrated *Organizational Improvement Initiatives* were introduced in May, 1993, which included:

- a *Quality and Quantity Assurance* program;
- a reformed *Customer Service* program;
- streamlined *Enforcement Procedures*;
- the use of *Enhanced Technology* to make complaint procedures work more efficiently;
- a leaner, more rational and cost-effective *Organizational Structure*;
- higher standards of *Accountability*;
- *Training and Development* programs for staff, and
- the introduction of *Organizational Health* and *Anti-Racist Principles* into the Commission's own administrative and operating structures.

The Commission is implementing these measures concurrently because each one complements and supports the others. Together, they create an agenda for change that is greater than the sum of its parts. This agenda for change provides the basic tools that the Commission needs to deliver on its legislative mandate. To that end, the Commission is committed to improving its customer service and its overall impartiality, efficiency and effectiveness. I have every confidence that these initiatives will breathe new life into the Commission's enterprise of building an agency that makes the great principles of the Universal Declaration of Human Rights a reality for every person in Ontario.

Rosemary Brown, P.C.
Chief Commissioner

IN MAY, 1993, the Commission introduced eight *Organizational Improvement Initiatives* that are based on the premise that the effectiveness and efficiency of the Commission depend on an aggressive agenda for change from the inside out. To ensure stability, the Commission designed these initiatives to consolidate and rationalize existing resources and expertise.

In February, 1994, the Chief Commissioner appeared before the Standing Committee on Government Agencies. The Committee received deputations from a wide variety of community groups, citizens and special interest groups, and also received testimony from the Honourable Elaine Ziembra, Minister of Citizenship and Dr. Juanita Westmoreland-Traoré, Commissioner of the Employment Equity Commission. The Chief Commissioner affirmed the need for continued implementation of the Commission's agenda for renewal and of the organizational improvement initiatives.

Each of the initiatives is described in detail below.

Quality & Quantity Assurance

The Commission's new *Quality and Quantity Assurance* program establishes standards for the investigation and analysis of human rights complaints. These standards emphasize quality control in each phase of the Commission's procedures. The program has three key elements. First, the Commission has developed intake guidelines that apply to all facets of the intake process. Intake refers to the initial contact between the Commission's staff and the general public, whether that contact is by telephone, in writing or in person. The guidelines ensure that persons who are seeking advice or information, or who are inquiring about how to make a complaint, are dealt with consistently and with sensitivity. The second element is the formal investigative plan. Use of the plan is now mandatory for all investigations. The plan assists officers to investigate complaints more methodically and systematically. It also enhances impartiality in the investigation process and ensures that public policy or systemic issues are identified in the course of investigations. Third, the Commission has developed rigorous standards to improve staff productivity. Regional managers are now accountable for case management goals which include regional goals for the fiscal year.

CUSTOMER SERVICE

The *Customer Service* program was developed to ensure that the Commission's procedures respect the dignity of complainants, respondents and the public at large, above all other considerations. This commitment was developed with staff consultation and is set out in a document entitled *Commitment to Service*. The document is displayed at the Commission's headquarters and at fifteen regional Commission offices throughout the province. The *Customer Service* program provides clear, measurable standards for the level of service that is expected from each staff member.

The *Commitment to Service* also ensures that the staff are knowledgeable about the realities of prejudice and discrimination. The Commission is thereby better able to develop procedures that are both responsive and sensitive to the diverse needs of the individuals and groups who approach the Commission for information and guidance.

ENFORCEMENT PROCEDURES

Effective enforcement procedures are central to the agency's ability to conduct investigations in a timely and unbiased manner. The Commission has made a number of non-legislative changes to its enforcement procedures to reduce delays that are within the Commission's control. The new procedures also ensure that the Commission's jurisdiction to handle complaints is applied consistently and reasonably.

The agency has streamlined its procedures and established clear time frames for each distinct activity in the handling of complaints. For example, a procedure has been introduced to allow the parties to explore settlement opportunities before a formal investigation begins. This procedure is called the "early settlement initiative." The possibilities of early settlement are raised by the Commission and the implications are explained to the parties who have ninety days within which to resolve the complaint. Each year, hundreds of complaints are settled through the early settlement initiative. Although the parties may still settle a complaint at a later point in the process, the focus on a structured early settlement allows the parties to resolve disputes without the time and expense of a formal complaint.

In addition, the Commission is making more appropriate use of section 34 of the *Human Rights Code* at an early stage of the investigation procedure. This section enables the Commission to exercise its discretion not to deal with complaints that are frivolous, trivial, vexatious or that are made in bad faith. The section also allows the Commission to decline to deal with a complaint that would be dealt with more appropriately through legislation other than the *Human Rights Code*. Complaints that are over six months old or that

are clearly outside the Commission's jurisdiction may also be turned down at an early stage. A thoughtful application of these principles enables the Commission to focus its resources on those cases that belong within the Commission's legislated mandate.

If a complaint is not settled, an investigation is conducted by Commission staff. In appropriate cases, the *Human Rights Code* authorizes the Minister to appoint a Board of Inquiry at the request of the Commission, provided that there is sufficient evidence. A Board of Inquiry is an independent decision-making body that is completely separate from the Commission. The Commission is a party before the Board of Inquiry.

In the Fall of 1993, the Commission worked with the Board of Inquiry Office to initiate the use of pre-hearing conferences. Through pre-hearing conferences, the parties are given a final opportunity to explore settlement options before the case is heard by a Board of Inquiry. As at March 31, 1994, pre-hearing conferences resulted in the settlement of 57 percent of the complaints that were heard in this forum.

TECHNOLOGY

Computer technology and applications are being used aggressively as a means of becoming more efficient, cost-effective and productive. Computerized tracking systems are now being applied to monitor complaints as they progress through the stages of investigation. These systems periodically generate bulletins which assist the Commission staff to keep the parties up to date about the status of any complaint in the system.

The Commission takes a great deal of care to ensure that all systems and applications protect the integrity of the agency's caseload data. The confidentiality of all personal information is strictly preserved.

ORGANIZATIONAL STRUCTURE

The staff of the Commission have legal responsibility for specific functions in the Commission's mandate, such as the investigation of human rights complaints. In past years, these functions were carried out by seven administrative units, each with its own director. As part of the organizational initiatives, the structure of the Commission has been reviewed by an Organizational Health and Effectiveness Committee and an Anti-Racism Committee. The Committees, as well as Commission staff, expressed a need for structural change.

Following a study of the Commission's legislated mandate, its performance and resources, the Commission was reorganized from seven administrative units to four branches:

- a *Regional Services and Systemic Investigation Branch* which now consolidates the enforcement and monitoring functions of the Commission. The Branch is responsible for the sound and strategic use of resources in respect of investigation and enforcement;
- a *Public Policy and Public Education Branch* which integrates the functions of the Communications and Education Unit and the Policy Unit into a single Branch. The Branch develops policy guidelines, provides advice to the Commission as well as to the general public, and has primary responsibility for public education, media relations and communications;
- a *Legal Services Branch* which provides legal services to the Commission and processes any requests for reconsideration of files, and
- a *Corporate Services Branch* which is accountable for leading the Commission in its efforts to become a model employer and an excellent service provider.

ACCOUNTABILITY

Commission staff are accountable for their performance standards and for the quality of the service provided by the Commission. Clarifying and enhancing accountability is a key objective of the Commission's *Organizational Improvement Initiatives*. Both the *Quality and Quantity Assurance* program and the *Customer Service* program have set clear standards to guide the performance of all staff and to encourage proper time and resource management. These measures reward both professionalism and performance.

TRAINING & DEVELOPMENT

The Commission is using training and development more efficiently to improve the knowledge, skills and abilities of its diverse staff. Adult learning principles are applied to encourage Commission staff to create a learning organization that promotes ongoing improvement and encourages staff to support each other and to learn from each other.

Staff have been trained to use new computer systems and technologies which enhance productivity. Other training initiatives which took place in 1993-94 include:

- two *Basic Investigation Skills* conferences for the Commission's human rights officers;
- a *Coarse Screening* conference to provide administrative staff with the skills needed to deal effectively with front-line situations involving clients of the Commission, and

- a workshop on *Dealing with Challenging Customers*, designed to provide staff with the skills and strategies needed to provide effective service to such customers, either over the phone or in person.

Since May, 1993, Commission staff received a total of 599 person days in training and development. This marks the beginning of a planned series of training initiatives to reinforce essential skills.

ORGANIZATIONAL HEALTH & ANTI-RACISM

Strategies to combat racism require a commitment to the principle of fairness. The Commission recognizes that this commitment should be reflected not only in the procedures used by the Commission to handle complaints, but also within the Commission itself.

This year, the Commission has initiated an examination of its own organization to identify and dismantle barriers to equality. Anti-racism principles are being used and integrated into an overall organizational renewal to ensure that all employees have access to the opportunities in the workplace. This initiative is part of the Commission's commitment to ensure that human rights principles are reflected in the agency's own employment practices. The process began with the work of the Organizational Health and Effectiveness Committee. The Committee established anti-racism principles that preserve and enhance the basic tenets of fairness in each aspect of the Commission's employment practices and in its program of organizational renewal.

II EFFICIENCY, EFFECTIVENESS & RESOURCES

CASELOAD PROFILE

HUMAN RIGHTS COMPLAINTS represent the Commission's most public activity. Moreover, the resolution of complaints has implications beyond each individual complaint. When complaints are referred to Boards of Inquiry, the resulting decisions create precedents and directions for human rights law in Ontario.

In the past, the Commission managed its complaints system through strategies that relied almost exclusively on management strategies related to the *size* of its caseload. However, the Commission's focus on the number of cases in the system has shifted to strategies that reflect the fact that the Commission's mandate is much broader than the caseload alone. Three factors play a part in this reassessment of the Commission's strategy.

First, although the Commission has a duty to resolve and investigate individual complaints, it is also obliged by law to make proactive efforts to eliminate discrimination. This is accomplished through a variety of activities within the Commission's legislative mandate, including public education, systemic initiatives and the review of provincial legislation to assess compliance with the *Human Rights Code*. The success of these proactive measures will have an impact on caseload management.

Second, case management strategies alone will not reduce the caseload unless the Commission's organizational structure is able to support the implementation of those strategies. Consequently, the training, development and accountability of staff have become priorities for the Commission. These priorities are reflected in the eight organizational initiatives that have been introduced this year.

Third, the figures indicate that the Commission will always have a sizeable caseload. In our large, diverse and rights-conscious society, this is not likely to change. To ensure that justice is not denied as a result of delays or protracted investigations, the Commission is focusing its efforts more than ever on due process and the rules of administrative fairness in order to reduce the length of time it takes to resolve each complaint in a manner that is fair to all the parties.

An assessment of these factors reveals that the *age*, not the size, of the caseload is the vital consideration when assessing the overall fairness of the system. *Qualitative* assessments are also critical in

order to examine the Commission's adherence to and promotion of natural and substantive justice.

The initiatives introduced this year, such as the improvement of enforcement procedures and improved staff training, have enhanced considerably the Commission's adherence to due process and neutrality. For example, the Commission is developing guidelines to assist human rights officers in investigating and analyzing complaints based on race. The guidelines will be completed during the next fiscal year.

For the first time since 1992, the size of the Commission's caseload actually *decreased* by 120 as at March, 1994. At present, the average age of complaints in the system is approximately seventeen months. This represents a 15% improvement over the average age of cases in the preceding fiscal year. It is also noteworthy that 67% of all cases closed in this fiscal year were with the Commission for less than twelve months.

On March 31, 1993, the Commission had a caseload of 296 files that had been pending investigation for three years or more. On March 31, 1994 the number of cases in this category fell by 56% to a total of 180 files, the *lowest* it has been since mid-1989.

III KEY CASES

Disability

THE *HUMAN RIGHTS CODE* places a duty on employers, unions and service providers to accommodate the needs of persons with disabilities. Meaningful access to services and facilities is a central feature of the duty to accommodate. The nature and scope of this duty was examined in the case of *Elliott v. Epp Centres*. Marjorie Elliott is a person with a severe handicap who uses a motorized wheelchair and a van equipped with a lift for mobility. These two pieces of technology give the Complainant a fair degree of mobility and independence, despite her handicap. On the other hand, Ms. Elliott requires a parking space that is wider than usual in order to accommodate the van.

According to the evidence, the Complainant and a friend decided to go for lunch at a restaurant located in a mall in Niagara-on-the-Lake. Ms. Elliott tried unsuccessfully to find a "handicapped parking" space. She eventually parked in a large area at an entrance way but was ordered to leave by the restaurant owner. Ms. Elliott told the restaurant owner that her vehicle was properly designated as a special vehicle for persons with disabilities. The restaurant owner replied, "I don't care, I don't want you here."

The complaint before the Commission dealt with the obligation of the Mall owner to put in parking spaces for persons with disabilities. The Respondent argued that in the absence of a city by-law, Epp Centres Inc. was not obliged to provide parking spaces of this kind. The Board of Inquiry held that parking is a "service" within the meaning of the *Code* and that the absence of parking for persons with disabilities is therefore discriminatory. The evidence showed that although the municipal planning department did not have a by-law requiring "handicapped parking", it did actively encourage plans which accommodated persons with disabilities. Moreover, there was no evidence filed by the Respondent Mall to the effect that the costs of putting in parking for persons with disabilities would cause undue hardship.

The Board of Inquiry accepted the principle that "it is the policy in Canada to integrate the disabled into the life of the community in every way possible. The elimination of physical barriers... is at the very heart [of this]." The Board of Inquiry ordered the Respondent Mall to provide one designated "handicapped parking" space and to take necessary steps to make the premises accessible to persons with disabilities. Ms. Elliott was awarded \$1,000.00 in damages.

Discrimination on the grounds of race and ancestry remain critical challenges for our society. These grounds account for almost one quarter of the complaints filed in 1993/1994. This year, two especially significant cases that were decided by Boards of Inquiry reaffirm the principle of anti-racism in the areas of differential treatment of persons of Native ancestry and in respect of adverse impact or constructive discrimination in the area of employment.

Peoples of Aboriginal descent have experienced especially damaging forms of racism and stereotyping. In the *Angeconebe* decision, a Native Canadian was given inadequate service and inferior accommodation at the Red Dog Inn in Red Lake, Ontario. The evidence before the Board of Inquiry was that the Inn's practices had the effect of limiting the quality of services available to clients of Native ancestry. Specifically, the Inn assigned a second rate, filthy room to Mr. Angeconebe and there was evidence that such treatment was routinely reserved for clients of Native ancestry. Rooms of inferior quality were located in a block of rooms in one section of the Inn and the Inn's records revealed that persons of Native ancestry were likely to be systematically assigned to rooms in that block.

The Board of Inquiry determined that these practices served to entrench an "invidious" form of racist stereotyping. Mr. Angeconebe was paid \$2,500 restitution for damage to his dignity and sense of self-worth.

In *Wong v. Ottawa Board of Education et al.*, a Board of Inquiry found that the Ottawa Technical High School had discriminated against the Complainant because of his Chinese ancestry. Mr. Wong was placed on a list of surplus teachers and then transferred to another school after fifteen years at the Ottawa Technical High School. A detailed examination of Mr. Wong's records revealed that the Respondents had criticized Mr. Wong's participation in extracurricular activities in relation to those of other teachers. For example, Mr. Wong was reluctant to participate in social events or to seek involvement in committees that were not perceived by him to be directly related to his primary role as a teacher. He preferred instead to spend non-scheduled time with students in activities related more closely to the subject he was teaching. The Board of Inquiry accepted evidence to the effect that Mr. Wong's decisions about how best to contribute to the school were a function of his race and ethnic origin, and in particular, a function of the traditional emphasis placed in Chinese culture on the importance of education. The Board held that Mr. Wong's extracurricular activities were not objectively inferior to or less valuable than those of other teachers. Consequently, the Board decided that the impact of the Respondents' assessment of Mr. Wong was discriminatory.

SEXUAL HARASSMENT

In *A. v. Quality Inn*, three female co-workers alleged that their employer had discriminated against them on the basis of certain comments made to and about them by the general manager of the Quality Inn. The supervisor had made vexatious, unpleasant comments about a female employee's alleged use of sex for money. The supervisor knew that the comments were offensive and unwelcome. The Board upheld the complaint on the grounds that every employee has the right to be free from harassment in the workplace. The corporate Respondent was ordered to revise its harassment policy, to distribute the revised policy to all employees and to post the policy in a prominent position in the workplace.

In some cases, an employer may plead ignorance of the harassing behaviour. This creates difficulties for complainants. This issue was addressed in *Broadfield v. De Havilland/Boeing*. The Board of Inquiry held that employers are not automatically liable for harassment by their employees. However, if employers fail to take adequate steps to prevent harassment and to deal with the harassment once it occurs, their liability will be engaged.

IV ISSUES IN HUMAN RIGHTS

Disability

THE COMMISSION WAS an active participant in provincial and municipal efforts to improve access to facilities and to eliminate barriers for persons with disabilities. The Commission successfully concluded negotiations with the Ministry of the Attorney General and the Ministry of the Solicitor General and Correctional Services to ensure that persons with disabilities have physical access to the Province's courthouses.

Sex

The *Policy Statement on Sexual Harassment and Inappropriate Gender-Related Comment and Conduct* was published in the Fall of 1993. The Commission developed these guidelines in consultation with community organizations including women's organizations, advocacy groups, universities and businesses. A plain language brochure, *Sexual Harassment and other Comments or Actions about a Person's Sex*, was published simultaneously. The brochure outlines clearly and concisely the *Code*'s definition of sexual harassment and inappropriate comments.

As part of its advisory and public education role, the Commission advises employers with respect to the removal of systemic barriers in the workplace. This year, Commission staff provided expertise to the City of Toronto to develop equality programs in the recruitment and hiring of firefighters. This initiative is expected to have a positive effect on the hiring of women as well as racial minorities.

The Commission's public education responsibilities also extend to social policy issues affecting immigrant communities in Ontario. Female genital mutilation, sometimes referred to as female circumcision, is a traditional practice in over forty countries. The international human rights and health communities have condemned the practice and are working to re-educate practitioners and the communities in which they work. Immigration from these countries has brought the issue to Canada. Canadian health and child welfare authorities are taking positive measures to eradicate the practice and to educate about the practice and the health consequences. In 1994, a provincial task force was struck to examine the existence and implications of the practice in Ontario. The Task Force's mandate is to develop a coordinated approach to eliminating this traditional practice. The Commission has begun to participate in meetings of the Ontario Female Genital Mutilation Prevention Task Force coordinated by the Ontario Women's Directorate.

The Commission has been involved in consultations with the College of Nurses of Ontario concerning a review of both their service delivery and employment systems. Similar consultations are under way with the Law Society of Upper Canada to incorporate rules against discrimination in the Society's Rules of Professional Conduct.

The Commission also attended a discussion group that dealt with the collection of race-based crime statistics. The group was organized by the Commission on Systemic Racism in the Ontario Criminal Justice System under the administration of the Ministry of the Attorney General. A preponderant majority of the community groups who expressed their views were strongly opposed to the collection of crime statistics based on race.

Racism against persons of Aboriginal ancestry continues to be a significant concern for the Commission. This year, the Commission participated in consultations with the Grand Chief of the Grand Council (Treaty #3) to discuss problems that Native persons in Fort Frances are experiencing in accessing health care services.

THIS YEAR, the Commission is proud to have been involved in a number of events and initiatives which helped to forge new relationships with community groups, educators, human rights organizations and other national institutions involved in human rights work. The Commission values and encourages opportunities to share expertise with stakeholders, partners and international agencies.

Since her appointment in June 1993, Chief Commissioner Rosemary Brown has held a series of briefings and consultations with the Commission's major stakeholders. These meetings included the Urban Alliance on Race Relations, the Coalition of Visible Minority Women, the Coalition for Equality Rights in Accommodation, the Board of Trade of Metropolitan Toronto, the Chinese Canadian National Council, the Canadian Manufacturers' Association, the Coalition for Lesbian and Gay Rights of Ontario, the Canadian Jewish Congress and the Ontario Dental Association.

Public education is part of the Commission's statutory mandate and requests for assistance and expertise are made on a regular basis. Faced with a heavy caseload and limited resources, the Commission has been scrutinizing more closely the deployment of its resources in the area of public education. The Commission carefully reviews applications for speaking engagements from the standpoint of both cost-effectiveness and strategic impact. The Commission responds to public education requests by providing written materials and by referring requests to other specialized groups where appropriate, including community advocacy groups, other government services or consultants. In identified cases of strategic impact of human rights issues, the Commission attends speaking engagements. For example, the Commission accepted a public speaking engagement request from the Ontario Association of Architects in order to provide a forum for the discussion of issues concerning access and physical barriers for persons with disabilities in light of the *Elliott* case. Speaking engagements are delivered by the Chief Commissioner or Commissioners, by members of senior management, and by regional managers.

The Commission knows that the next generation is our most important audience for the message about human rights and the principles of dignity and mutual respect. The Commission is delighted to announce that work has begun on an educational project entitled *Teaching Human Rights in Ontario*. The package will be available in English and in French and will be distributed to teachers in schools throughout the province. The package will focus on basic

human rights principles, the *Human Rights Code* and the work of the Commission. This project will be finalized in 1995.

The Commission has also developed a quarterly newsletter entitled *Community Update* with a view to keeping stakeholders in the community informed about the Commission and its work. The newsletter provides news and information about *Code*-related developments, complaint resolution and Board of Inquiry decisions. *Community Update* is circulated to over 250 organizations.

Each year, the Ontario Human Rights Commission commemorates December 10, International Human Rights Day. On that day in 1948, the General Assembly of the United Nations adopted a new international standard for the protection of rights, the Universal Declaration of Human Rights. This year, on the eve of the 45th anniversary of the Declaration, the Commission prepared and distributed press releases to the Ontario media, informing them of the significance of Human Rights Day. As well, Commissioners participated in citizenship ceremonies by delivering keynote addresses during swearing-in ceremonies for new Canadians in Citizenship Courts across Ontario. The theme of the address was "partners in friendship, in responsibility, in rights and in harmony".

The Ontario Human Rights Commission continues to share information about human rights with countries and organizations around the world. Consultations have involved issues such as the preservation of impartiality through the separation of enforcement and advocacy functions. For example, the Commission provided the Women's Bureau of the Japanese Ministry of Labour with advice and information respecting human rights issues, and Bermuda has twice sought the Commission's assistance in establishing and administering its own human rights commission. The Commission also received a delegation from South Africa, just prior to that nation's historic elections, and the Commission was especially pleased to have had the opportunity to share its own experiences in the administration of human rights agencies and the promotion of human rights.

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BOARDS OF INQUIRY 1993-94

FINAL DECISIONS

HANDICAP

- *Theresa Allan v. Dr. J. H. Singh*
- *Mr. Jerome v. Dr. Paul DeMarco*
- *Kelly B. McCarthy v. Kays Toronto Trading Ltd. et al.*
- *Elliott v. EPP Centres Inc. et al.*
- *Donald Chiro v. Sheridan College of Applied Arts & Technology and Cheryl Snyder*
- *John Tam v. Inglis Limited and Nick Vuk Communication Workers of Canada*
- *Mark Mason v. Galt Country Club Limited; William Fowler*
- *Robert Surge v. Excelsior Glass Limited*
- *Vince DeSouza v. Ontario Liquor Control Board*

RACE

- *Alan Shreve v. Corporation of the City of Windsor and Jeremy Hancock*
- *Garnet Angeconebe v. 517252 Ontario Ltd. and Ruby Cullen*
- *Richard Persad v. Sudbury Regional Police Force, Richard Zanibbi, D. B. McKay, Denis O'Neill; Inspector Watson, Inspector Lavoie, Doug Wuksinic*
- *Laura Roberts v. Vince Chmiel and Club Expose (operated by 879678 Ontario Limited)*
- *Shirley Morrison v. Effort Trust Realty Company and Romeo Aucoin*
- *Awadh Ahmed v. Canada Packers Inc. and Dan Cloutier*

SEX

- *Ms. Christine Broadfield v. De Havilland/Boeing of Canada Limited, Mr. John O'Neill and Mr. Merv Gray*
- *Elizabeth Clinton v. Ontario Blue Cross et al.*
- *Laura S. DeMille (Taggart) v. City Ambulance Service of Quinte and Alan Morton*
- *Jo-Anne Wales-Callaghan v. CN Office Cleaning Ltd. and Cavell Nicholson*

- *Lyne Leclair v. Dr. Amel Roberge*
- *'AB' (Eric Sabourin) v. Jerome Colloredo-Mansfield, Sarah Eileen Clarke and Chris Clarke*
- *Erin Casselman and Suzanne Ouellet v. Ontario Soccer Association*
- *Shirley Hom and Cindy Petersen v. Impact Interiors Inc. and Ken Walia*
- *Anita Hall v. A-1 Collision and Auto Service and Mohammed Latif*
- *Lynn Gosselin v. The Kenora Ballet School et al.*

SEXUAL ORIENTATION

- *Elizabeth Clinton v. Ontario Blue Cross et al.*
- *'AB' (Eric Sabourin) v. Jerome Colloredo-Mansfield, Sarah Eileen Clarke and Chris Clarke*

SEXUAL HARASSMENT

- *Ms. Christine Broadfield v. De Havilland/Boeing of Canada Limited, Mr. John O'Neill and Mr. Merv Gray*

ANCESTRY

- *'AB' (Eric Sabourin) v. Jerome Colloredo-Mansfield, Sarah Eileen Clarke and Chris Clarke*

AGE

- *John Tam v. Inglis Limited and Nick Vuk Communication Workers of Canada*
- *Carole Anne Lannin v. Her Majesty the Queen in Right of Ontario, Ministry of the Solicitor General, Ontario Provincial Police, Dana Ostrom and Douglas Cobean*

Family Status

- *Bernadette Levesque v. Gustav Fisher and Rhydwen Apartments Ltd.*
- *Carole Anne Lannin v. Her Majesty the Queen in Right of Ontario, Ministry of the Solicitor General, Ontario Provincial Police, Dana Ostrom and Douglas Cobean*
- *Leslie Thurston v. Cheng Ching Lu and Su Chen Lu*

MARITAL STATUS

- *Carole Anne Lannin v. Her Majesty the Queen in Right of Ontario, Ministry of the Solicitor General, Ontario Provincial Police, Dana Ostrom and Douglas Cobean*

- *Laura S. DeMille (Taggart) v. City Ambulance Service of Quinte and Alan Morton*
- *Jay Brasse and Janet Wing v. Vasija Real Estate et al.*

RECEIPT OF PUBLIC ASSISTANCE

- *Carol McEwen v. Warden Building Management Ltd. and V.I.P. Property Management Ltd.*
- *Donna Kostanowicz v. Branislaw Zarubin*

BOARDS OF INQUIRY 1993-94

SETTLEMENTS

HANDICAP

- *Vivette Oliver v. Marriott Hotels of Canada et al.*
- *John Strutt v. Gray-Canadian Network Broadcast Sales Inc. et al.*
- *Paul Smith v. Belleville Police Services Board*
- *Joan Moore v. Beechwood Promenade Phase II, Bernd Karr and Margaret Bradley*
- *John Michea v. The Kingston Psychiatric Hospital et al.*
- *Laura Booth v. The Board of Education for the City of Etobicoke and Gary Vipond*
- *Fred Haggins v. Aberfoyle Metal Treaters Ltd. and Harry Hall*
- *Sonia Weinreb v. Ridge Hall Land Ltd.*
- *Fred Sparkman v. West Glen Village c/o Castlemar Realty Inc. et al. and Galaxy Homes Inc.*
- *E. Maxine Myers v. Workers' Compensation Board and Jean-Claude Bertrand and John Lawson*
- *Geoffrey Miller v. Addison On Bay Ltd.*
- *Mark Crichton v. Sun Chemical Limited, Mark Cottrell and Steve Doyle*

RACE

- *Ibrahim El-Shayal v. Sir Sandford Fleming College et al.*
- *Ihsan El-Sayed and Ibrahim El-Sayed v. Bayfield Equitable Management Ltd.; Bayfield Management Limited, 31 Park Blvd. Apts. Limited, Lake Promenade Apartments Limited, The Lake Promenade Partnership and Jack Greenberg*
- *Mr. Murvin Wallace v. Dodge Canada, A Division of Reliance Electric Limited et al.*
- *Violet Baldacchino v. Bennett and Norgrove Ltd. and Joanne Trudel*

CREED

- *Heide Uppal v. Hamilton-Wentworth Roman Catholic School Board and Pat Meiler*
- *Ontario Human Rights Commission v. The Peel Board of Education*
- *Daniel Robbins v. Canadian Timken Ltd.*

CITIZENSHIP

- *Heide Uppal v. Hamilton-Wentworth Roman Catholic School Board and Pat Meiler*
- *Ontario Human Rights Commission v. The Peel Board of Education*
- *Daniel Robbins v. Canadian Timken Ltd.*

SEX

- *Coreene Smith v. Sault Ste. Marie Men's Athletic Association*
- *Barbara Horan (Bates) v. Associated Toronto Taxi Co-operative Limited (A.K.A. Co-op Taxi) and Mr. Joe Motta*
- *Krista MacDonald v. Ministry of Correctional Services et al.*
- *Gail McCullough v. Norm Jones, Hydron Canada Ltd. and Allergan Inc.*
- *Elisa Trautlein v. Access Medical Centre and Tom Riggs*
- *Seonaid Meiklem v. Bot Quebec, Ltd., Luigi Bot and Roy Bot*
- *S(S) Sarah Simmonds v. Millbrook Correctional Institute, Peter Fitzpatrick and Superintendent Preston*
- *Lynn Ptashnik v. Prudential Insurance Company of America, Derek Murray and Richard Train*
- *Robin Walsh v. YM/YWCA*
- *Karen Moore v. The Canadian Corps of Commissionaires*
- *Lubica Mery v. Raytheon Canada Limited and Fred Vandervelden*
- *Laura Hamilton v. Nedco (A Division of Westburne) and Oreste Apolito*
- *Florence Addison v. The Great-West Life Assurance Company of Canada, Amstel Breweries Canada Ltd. and Kai Plaughmann*
- *Tamra Jean Tobin v. Beach Grove Golf and Country Club*
- *Crystal Mortillaro (nee Barnett) v. Hill & York Corporation and Diamond Rain Corporation and Cas Malhowski*
- *Jackie Blattner v. The Red Rock Inn Inc. et al.*
- *Pamela Gower v. Screen Print Display Industries, Inc.*

SEXUAL ORIENTATION

- *S(S) Sarah Simmonds v. Millbrook Correctional Institute, Peter Fitzpatrick and Superintendent Preston*
- *Robin Walsh v. YM/YWCA*

AGE

- *Sonia James v. Metropolitan Toronto Condominium Corporation No. 606 ("MTCC 606")*
- *Karin Wolter and John Defalco v. Metropolitan Toronto Condominium Corporation No. 873, Roy Gardiner and Peter Cooper*
- *Joe Fusca and Sandy Fusca v. Ann David*
- *C. Stanton Stevenson v. Ontario Hydro, Lawrence Leonoff and Eric Finn*

Family Status

- *Sonia James v. Metropolitan Toronto Condominium Corporation No. 606 ("MTCC 606")*
- *Karin Wolter and John Defalco v. Metropolitan Toronto Condominium Corporation No. 873, Roy Gardiner and Peter Cooper*
- *Joe Fusca and Sandy Fusca v. Ann David*
- *Margaret Ross v. Leslie Hegedus*

Marital Status

- *Margaret Ross v. Leslie Hegedus*

Receipt of Public Assistance

- *Lisa Rae v. Glenn Stansbury*

BOARDS OF INQUIRY 1993-94 DIVISIONAL COURT

SEX

- *Diane Gale v. Great Atlantic & Pacific Co. of Canada Limited and Ontario Human Rights Commission, Constance Backhouse, United Food and Commercial Food Workers International Union, Locals 175 and 633, Steinberg Inc. and Diane Gale and United Food Workers International Union, Locals 175 and 633*
- *Great Atlantic & Pacific Co. of Canada Limited v. Her Majesty the Queen in Right of Ontario (Diane Gale)*

BOARDS OF INQUIRY 1993-94 COURT OF APPEAL

AGE

- *Ontario Hydro v. Ontario Human Rights Commission*
- *Ontario Human Rights Commission (Edwin Roberts) v. Ministry of Health*
- *Albert Large v. The Corporation of the City of Stratford, Stratford Police Department and Board of Police Commissioners*

FINANCIAL STATEMENT

THE COMMISSION'S APPROVED year-end allocation for the 1993-94 fiscal year was \$13,233,100. The Ontario Human Rights Commission operates 16 offices throughout the province, including a head office in Toronto. In addition to investigating and conciliating formal human rights complaints, the Commission's staff addressed 111,094 inquiries and made 32,431 referrals.

COMMISSIONERS

CHIEF COMMISSIONER Rosemary Brown is the only full-time member of the Ontario Human Rights Commission. The Chief Commissioner chairs meetings of the Commission. The Vice-Chair of the Commission presides over meetings of the Commission in the absence of the Chief Commissioner.

The Commissioners are selected to represent the diversity of Ontario, preserving a balanced representation of groups designated by the *Human Rights Code* from both the complainant and respondent perspectives. The Commissioners are accountable for preserving strict impartiality in their deliberations under the *Code* and for giving effect to the public policy of human rights enacted by the legislators of Ontario.

Following are biographical profiles of the Chief Commissioner and Commissioners during this fiscal year.

ROSEMARY BROWN CHIEF COMMISSIONER

Ms. Brown was appointed Chief Commissioner of the Ontario Human Rights Commission on June 4, 1993. The first Black woman to be elected to political office in Canada, she served 14 years as a Member of the British Columbia Legislature from 1972 until her retirement in 1986. A champion of human rights, she has earned respect for her work in Canada and around the world. Ms. Brown is a patron of the National Council of Black Educators of Canada and the Vice-Chairperson of the South African Educational Trust Fund. She received the National Black Coalition Award in 1972, the U.N. Human Rights Fellowship in 1973 and the Canadian Black Achievement award in 1994. Ms. Brown, who emigrated from Jamaica to Canada in 1950, is a member of the Privy Council and a member of Canada's Security Intelligence Review Committee. She sits on the Board of Trustees of Queen's University and on the Board of Directors of the Canadian Women's Foundation. Her autobiography, *Being Brown*, was published by Random House in 1989.

Alok MUKHERJEE VICE CHAIR

Mr. Mukherjee was appointed to the Commission in March, 1992 and in June, 1993 he became Vice-Chair of the Commission. He is a consultant, trainer, and writer in anti-racist and multicultural education, race relations and human rights. He served as the Race Relations Advisor to the Toronto Board of Education and has written on a variety of race relations issues. He is a member of the Doris Marshall Institute for Education and Action and has co-written a

book on anti-racist education. Effective November, 1992, he assumed the role of Acting Chief Commissioner and in June, 1993, resumed his position as Vice-Chair.

IDA DEJESUS

Ms. DeJesus was appointed to the Commission in August, 1993. A lawyer by profession, Ms. DeJesus has been a Member of the Board of Abrigo (Centre for Victims of Family Violence), member of the Committee of the 40th Anniversary of the Portuguese Community, Chair of the Luso-Canadian Cultural Council of Hamilton and Vice-President of the Portuguese-Canadian National Congress—Ontario.

REVA DEVINS

Ms. Devins was appointed to the Commission in February, 1987. A lawyer, she was called to the Bar in 1985. She has law degrees from Osgoode Hall (LL.B) and Harvard University (LL.M). During the past five years, Ms. Devins has been an active participant in several Commission committees and panels. She most recently served as the Commission's official liaison with the Ontario *Human Rights Code* Review Task Force, established by the government to make recommendations on human rights reform. Ms. Devins' term expired in May, 1993.

LOUIS LENKINSKI

Mr. Lenkinski was appointed to the Commission in July, 1987. A member of the Upholsterers' International Union for many years, Mr. Lenkinski served as its business representative from 1958 to 1969. Since then, he has held the positions of Project Director and Executive Secretary to the Labour Council of Metropolitan Toronto. In 1975, he became Executive Assistant to the Ontario Federation of Labour and in 1984, he was appointed a part-time member of the Ontario Labour Relations Board. He is actively involved on the executive of a number of community organizations.

ROBERT MILBOURNE

Mr. Milbourne was appointed to the Commission in July, 1992. A graduate of Metallurgical Engineering, Mr. Milbourne joined Stelco in 1963 and worked in various positions leading up to his current position as President, Chief Operating Officer and Member of the Board of Directors. He is a member of a number of associations, including the Canadian Institute of Mining and Metallurgy and the Occupational Health Clinic for Ontario Workers.

RICHARD MILES

Before his appointment to the Commission in July, 1992, Mr. Miles held senior administrative positions with the Ministry of Community and Social Services, the federal Secretariat of Disabled Persons Office, and most recently, Handicapped Action Group Incorporated in Thunder Bay. Mr. Miles was appointed by the Minister of Citizenship to the recently concluded Task Force conducting a procedural review of the Ontario Human Rights Commission.

CARMEN PAQUETTE

Ms. Paquette was appointed to the Commission in June, 1991. Her expertise includes such areas as women's issues, minority rights, social and economic issues, human resource development and community development. She is currently a partner in a workers' cooperative that specializes in organizational development, research and training. Ms. Paquette's term expired in February 1994.

GAETANE PHARAND

Ms. Pharand was appointed to the Commission in June, 1991. She was trained in business management and was recently employed as Events Coordinator with L'Association des professeurs des Collèges at Laurentian University, and as communications officer at Radio Canada. She has been active in community service since 1988 and has served as vice-president of St. Eugene's Parish Council.

TOM WARNER

Mr. Warner was appointed to the Commission in February, 1993. He is a senior executive at the Institute of Chartered Accountants of Ontario where his responsibilities include policy development and government relations on behalf of the profession. Mr. Warner has been a founder and member of such groups as the Coalition for Lesbian and Gay Rights in Ontario, the Right to Privacy Committee and the City of Toronto's Lesbian and Gay Issues Committee.

ST. CLAIR WHARTON

Mr. Wharton was appointed to the Commission in June, 1991. Before that, he was the president of Local 2858, United Steelworkers of America from 1985 to 1991, and served as vice-president from 1983 to 1985. He has a wide range of experience on human rights issues, having served on a number of human rights committees within the Union, and the OFL Human Rights Committee and the Parkdale Action Committee against Racism. Mr. Wharton conducts human rights courses and workshops for the Union.

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TABLE 1:

COMPLAINTS BY REGION OF REGISTRATION & GROUND, 1993-94

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE(%)
EASTERN	43	18	8	49	39	8	20	11	12	77	14	-	2	3	-	304	13
HAMILTON/NIAGARA	34	3	7	36	31	3	33	17	6	74	8	-	1	-	1	254	11
NORTHERN	41	6	3	52	22	6	19	8	5	70	8	-	1	1	1	243	11
SOUTHWESTERN	42	2	9	50	46	7	10	2	7	73	2	-	3	-	-	253	11
TORONTO CENTRAL	151	7	10	71	33	17	35	2	9	98	9	-	3	-	-	445	19
TORONTO EAST	54	18	9	67	31	3	38	11	26	85	11	-	7	-	-	360	16
TORONTO WEST	108	16	16	65	47	2	40	3	14	98	7	2	6	3	-	427	19
TOTAL	473	70	62	390	249	46	195	54	79	575	59	2	23	7	2	2,286	100
PERCENTAGE(%)	21	3	3	17	11	2	9	2	3	25	3	0	1	0	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

TABLE 2:

COMPLAINTS RECEIVED BY PROVISION & GROUND, 1993-94

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE(%)
SERVICES	91	6	15	24	-	18	14	7	9	102	-	-	1	3	-	290	13
HOUSING	34	6	1	4	9	5	20	9	46	26	59	-	-	1	-	220	10
CONTRACTS	4	2	-	-	-	1	-	-	-	-	-	-	-	1	-	8	0
EMPLOYMENT	342	56	46	355	240	21	161	38	24	443	-	2	4	2	1	1,735	76
VOCATIONAL ASSOCIATION	1	-	-	6	-	1	-	-	-	2	-	-	-	-	-	10	0
REPRISAL	1	-	-	1	-	-	-	-	-	2	-	-	18	-	-	22	1
BREACH OF SETTLEMENT	-	-	-	-	-	-	-	-	-	-	-	-	-	1	1	0	
TOTAL	473	70	62	390	249	46	195	54	79	575	59	2	23	7	2	2,286	100
PERCENTAGE(%)	21	3	3	17	11	2	9	2	3	25	3	0	1	0	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

TABLE 3:

SETTLEMENTS EFFECTED by GROUND, 1993-94

	\$ Specific & General Damages	Complainants Receiving Damages	Offer of Job or Facility	Offer of, or Consideration for, Next Job or Facility	Affirmative Action Implemented	Seminars with Respondent Staff	Review of Policies or Documents	Issuance or Correction of References	Letter of Apology to Complainant	Written Declaration of Management Policies
RACE/COLOUR	\$305,105	51	23	5	6	28	31	14	36	77
ETHNIC ORIGIN ¹	\$59,287	7	3	1	4	3	8	3	10	17
CREED	\$6,000	2	3	-	-	1	2	4	3	4
SEX & PREGNANCY	\$334,409	65	21	10	2	22	40	16	20	81
SEXUAL HARASSMENT	\$260,720	84	5	1	2	35	53	27	33	81
SEXUAL ORIENTATION	\$8,050	4	1	-	-	1	8	-	5	5
AGE	\$125,283	21	13	3	-	6	34	5	7	25
MARITAL STATUS	\$13,171	9	8	3	-	5	14	1	5	13
FAMILY STATUS	\$31,886	14	11	1	1	2	14	1	6	17
HANDICAP	\$633,293	106	76	11	-	26	70	25	28	86
RECEIPT OF PUBLIC ASSISTANCE ²	\$500	1	8	5	-	2	6	1	-	3
OTHER	\$16,795	4	3	1	-	1	1	1	-	1
TOTAL	\$1,794,499	368	175	41	15	132	281	98	153	410

1. Citizenship, ancestry, place of origin

2. Only in accommodation

TABLE 4:

COMPLAINTS CLOSED BY PROVISION, DISPOSITION & GROUND, 1993-94

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	RBOSNG ⁴	TOTAL	PERCENTAGE(%)
EMPLOYMENT															
Board Appointed	7	4	-	9	7	4	2	-	2	29	-	-	-	64	4
Settled	86	15	13	132	115	6	54	23	9	182	-	1	1	637	40
Dismissed or not pursued	72	25	3	36	16	1	40	7	8	62	-	-	3	273	17
Withdrawn	132	19	13	122	80	3	58	10	8	187	-	1	1	634	39
TOTAL	297	63	29	299	218	14	154	40	27	460	-	2	5	1,608	100
ACCOMMODATION															
Board Appointed	4	-	-	1	1	2	-	-	1	2	1	-	-	12	6
Settled	14	4	-	-	7	4	6	9	29	13	18	-	-	104	53
Dismissed or not pursued	3	-	1	-	2	-	-	4	3	2	4	-	-	19	10
Withdrawn	10	3	1	2	4	1	1	4	9	6	18	-	1	60	31
TOTAL	31	7	2	3	14	7	7	17	42	23	41	-	1	195	100
SERVICES															
Board Appointed	2	-	-	2	-	1	-	-	-	1	-	-	-	6	2
Settled	39	9	3	11	-	5	7	3	3	45	-	-	-	125	48
Dismissed or not pursued	15	-	1	1	-	3	1	5	2	19	-	-	4	51	19
Withdrawn	24	2	3	6	-	6	2	3	3	32	-	-	-	81	31
TOTAL	80	11	7	20	-	15	10	11	8	97	-	-	4	263	100
CONTRACTS, VOCATIONAL ASSOCIATIONS, REPRISALS, BREACH OF SETTLEMENTS															
Board Appointed	-	-	-	1	-	-	-	-	-	-	-	-	2	3	5
Settled	3	1	-	2	-	-	-	-	-	1	-	-	6	13	23
Dismissed or not pursued	-	-	-	4	-	-	-	-	2	-	-	-	11	17	30
Withdrawn	-	-	-	13	-	-	-	-	-	1	-	-	9	23	41
TOTAL	3	1	-	20	-	-	-	-	2	2	-	-	28	56	100

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

4. RBOSNG—Reprisal, Breach of Settlement, No Grounds

TABLE 5:

EMPLOYMENT COMPLAINTS CLOSED BY DISPOSITION & GROUND, 1993-94

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences ²	RBOSNG ³	TOTAL	PERCENTAGE(%)
RECRUITMENT & HIRING													
Board Appointed	2	3	-	2	-	-	-	1	-	-	-	8	3
Settled	13	1	3	28	-	24	8	6	16	1	1	101	43
Dismissed or not pursued	14	11	1	6	-	4	1	-	8	-	3	48	21
Withdrawn	14	1	3	18	-	14	4	4	18	-	-	76	33
TOTAL	43	16	7	54	0	42	13	10	43	1	4	233	100
PERCENTAGE(%)	18	7	3	23	0	18	6	4	18	0	2	100	
TERMINATION													
Board Appointed	2	1	-	2	1	1	-	2	9	-	-	18	3
Settled	32	4	4	73	1	26	9	2	105	-	-	256	37
Dismissed or not pursued	35	3	2	16	1	24	6	1	34	-	-	122	17
Withdrawn	64	15	5	65	1	25	6	4	116	1	1	303	43
TOTAL	133	23	11	156	4	76	21	9	264	1	1	699	100
PERCENTAGE(%)	19	3	2	22	1	11	3	1	38	0	0	100	
DURING EMPLOYMENT													
Board Appointed	3	-	-	5	3	1	-	-	19	-	-	31	7
Settled	41	10	6	31	5	4	6	1	61	-	-	165	36
Dismissed or not pursued	23	11	-	14	-	12	-	7	20	-	-	87	19
Withdrawn	54	3	5	39	2	19	-	-	53	-	-	175	38
TOTAL	121	24	11	89	10	36	6	8	153	0	0	458	100
PERCENTAGE(%)	26	5	2	19	2	8	1	2	33	0	0	100	
TOTAL⁴	297	63	29	299	14	154	40	27	460	2	5		1,390

1. Citizenship, ancestry, place of origin

2. Only in employment

3. RBOSNG—Reprisal, Breach of Settlement, No Grounds

4. The total excludes 218 sexual harassment complaints

TABLE 6:

EMPLOYMENT COMPLAINTS CLOSED BY TYPE OF WORK, 1993-94

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences ²	RBOSNG ³	TOTAL	PERCENTAGE(%)
Professional, Managerial, Technical	89	21	7	84	41	7	38	8	15	98	-	3	411	26
Sales	19	3	7	39	31	1	15	11	1	27	1	-	155	10
Clerical	37	4	1	64	55	1	20	4	-	66	-	-	252	16
Craft & Forepersons	18	4	3	11	11	-	34	1	1	42	-	1	126	8
Operatives	36	2	2	3	6	-	7	2	1	50	-	-	109	7
Services	38	4	3	35	45	5	15	9	3	32	-	-	189	12
Labour, General	57	25	6	63	24	-	22	5	6	139	1	1	349	22
Unspecified	3	-	-	-	5	-	3	-	-	6	-	-	17	1
TOTAL	297	63	29	299	218	14	154	40	27	460	2	5	1,608	100

1. Citizenship, ancestry, place of origin

2. Record of employment

3. RBOSNG—Reprisal, Breach of Settlement, No Grounds

TABLE 7:
COMPLAINTS CLOSED BY TYPE OF INDUSTRY, 1993-94

1. Citizenship, ancestry, place of origin

1. Citizenship, ancestry, pr
2. Only in accommodation

3. Only in Employment

4. BBOSONG—Reprisal, Breach of Settlement, No Grounds

ANNUAL REPORT

1994-95

ONTARIO HUMAN RIGHTS COMMISSION
ANNUAL REPORT
1993-94 AND 1994-95

Ontario Human
Rights Commission

Chief Commissioner

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Commission ontarienne
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May 16, 1996

Honourable Marilyn Mushinski
Minister of Citizenship, Culture and Recreation
6th Floor, 77 Bloor Street West
Toronto, Ontario
M7A 2R9

Dear Minister:

Pursuant to Section 31(1) of the Ontario *Human Rights Code*, it is my pleasure to provide to you the Annual Report of the Ontario Human Rights Commission for the fiscal year 1994-1995 for submission to the Legislative Assembly of Ontario.

This report reflects the activities of the Commission to March 31, 1995.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Brown".

Rosemary Brown, P.C.
Chief Commissioner

PREFACE

THIS YEAR, the Commission continued to build on the changes and initiatives that were begun the year before. The commitment was to work towards making the Commission more efficient and effective in delivering on its mandate. This was to be done not through cosmetic changes, but through structural re-organization.

In the process, we have not lost sight of the Commission's position as the oldest and one of the largest human rights agencies in Canada. The Commission has had an especially important role to play in the development of a society that takes to heart the belief that all of its citizens are equal. The Commission's priority has been to promote a productive, informed agency that would foster a 'learning organization'. To this end, steps have been taken to ensure that fairness and natural justice are integrated into each step of the complaints management process.

Better organization and training have resulted in the speedier processing of complaints and improved management practices. In addition, public education initiatives received renewed attention. For example, the Commission finalized a very exciting project for high school students this year entitled *Teaching Human Rights In Ontario*. These materials were published by the Commission for use in English and French schools in Ontario and are designed to assist students to understand and appreciate their own rights and responsibilities, the rights and responsibilities of others, and the entitlement of all people to dignity and respect.

The Commission has also furthered public interest in human rights through cases that raise important issues. The Commission identifies those cases that have implications beyond the individual complaint, and publicizes the results of noteworthy settlements or reaches agreements that benefit a wide number of people in addition to the complainant. In this way, the Commission is able to broaden the impact of such cases and to be more proactive in dealing with human rights issues.

An example of a noteworthy settlement involved a group of complaints against a major Toronto area hospital. The complaints, filed by ten nurses, alleged that the hospital's procedures and actions had resulted in direct and systemic racial discrimination against racial

minority nurses. The terms of the settlement included a commitment by the hospital to develop measures to address the presence of systemic racism in the workplace.

In addition, through a systemic approach to appropriate individual complaints, the Commission was able to target policies and practices that on the surface appear to be neutral, but which have a demonstrably negative impact on members of groups protected by the *Code*. While the Commission was facing those issues, its caseload continued to increase and its budget was reduced. We handled almost 120,000 inquiries and referrals this year and managed a formal caseload of 2,407 complaints. Of that number, *only 172* had been in process for three years or more. The average time of processing complaints, from filing to resolution, was fifteen months.

The focus of the work of the Commission, however, has not been the quantity of complaints, but rather the quality of service delivered to both complainants and respondents, with an emphasis on the extent to which the rights of all the residents of the province are being protected.

In this year, as the world watched in horror the escalation of gross violations of human rights, and the disquieting encroachment of racial and ethnic intolerance on an international scale, we experienced reminders that we are not immune from discrimination and intolerance here in Ontario, especially in the workplace. These times of rising unemployment and dwindling public resources are reflected in the fact that 69% of complaints filed with the Commission are in the area of employment. These are primarily on the grounds of handicap, race, ethnic origin and gender.

As we move into the future, we hope that the changes in the procedures and practices of the Commission will continue, and that the resulting improvement in effectiveness and efficiency will make the mandate of the *Code* real to more people. We know, however, that the challenges facing the Commission will grow as the definition of human rights continues to expand and change. Financial restraints also put pressures on society's attitude towards fairness and equity with the result that the Commission is increasingly called upon to right the balance. Diminishing resources will necessarily affect the

Commission's ability to discharge its mandate as these factors strain the delicate balance between protecting the rights of individual complainants and the rights of communities and groups.

The Commission's work is not performed in isolation. Public commitment to human rights and individual dignity and worth is crucial to the success of the interests for which the Commission is responsible. Barring a diminished commitment to the issues or profound resource reductions, the Commission faces the future confident that if we stay the course, the Commission will be able to meet these challenges.

Rosemary Brown, P.C.
Chief Commissioner

HUMAN RIGHTS HAVE been called the “great idea of our time”.¹ Ontario has had a stake in that idea longer than any province in this country. Human rights legislation in Ontario goes back to 1944, and in 1962 the Ontario Human Rights Commission became Canada’s first human rights agency. With thirty-two years of experience in serving this province’s citizens and communities, the Commission handles over one hundred thousand inquiries and referrals a year and processes over 2,000 formal complaints annually. The Commission also litigates dozens of cases each year before boards of inquiry and the courts as part of its role in promoting an understanding of and commitment to human rights as a matter of public interest pursuant to the *Human Rights Code*.

The Commission is uniquely engaged — it is engaged not only with enforcing legislation, but also in the defence of human rights and human dignity. The scope of that task has grown enormously over the last three decades. In 1962, the predecessor to today’s *Code* originally covered a small number of grounds such as race, colour, nationality, creed and sex. Today, the grounds have expanded to include citizenship, ethnic background, age, marital status and disability, to name a few. Since 1982 the *Code* has also prohibited harassment and discrimination in the area of housing based on receipt of public assistance. Sexual orientation was added in 1986. The growth in the legislative mandate, coupled with an increasing public awareness of human rights issues, has had a cumulative effect on the demands made upon the agency.

The Commission recognizes that it must offer quality service while remaining sensitive and flexible enough to respond to the ever-changing face of discrimination. It must defend respect for individual rights, while fulfilling its mandate to provide protection for people who face discrimination on the sole basis of their membership in a group. It must do all this, and do it well, in a time of fiscal restraints. In sum, these challenges make it clear that the “great idea of our time” must become more than just an idea. Human rights must become a reality for every citizen of this province.

¹ P.R. Ghandi, *Blackstone’s International Human Rights Documents* (London: Blackstone Press Ltd, 1995), at vii.

In July, 1994 the Standing Committee on Government Agencies issued its twentieth report on agencies, boards and commissions of the Government of Ontario. As part of its mandate, the Committee reviewed the operations of the Ontario Human Rights Commission, and heard from a wide range of witnesses, experts from community groups and other stakeholders.

The Commission provided extensive background information on the organizational reforms that it had introduced in 1993-94. The Standing Committee supported the reform process, noting that the reforms are part of a program of renewal, based on a series of organizational improvement initiatives.² The Standing Committee stated that it was:

impressed by this program of renewal, as well as Ms. Brown's personal commitment to the task of reforming the Commission. It is clear that the Commission is devoting considerable time and energy to reforming itself in order to better serve its clients and the cause of human rights in Ontario. Members [of the Committee] agree that further efforts to implement change at the Commission must build on reforms already introduced.³

However, the Standing Committee also noted that witnesses before the Committee expressed ongoing concerns about delays in case processing. Some witnesses were anxious that the Commission's efforts to eliminate delays were adversely affecting the Commission's investigatory procedures.

Key Developments

The Commission carefully reviewed its own procedures and policies during the fiscal year 1994-1995 and concerted efforts were made to address specific concerns. A few of the more notable accomplishments are summarized here:

- resources continue to be focused on settlement efforts at the beginning of the complaints process. The results have been favourable: 36% of the cases that come before the Commission are now settled in this preliminary phase;
- there has been a 30% increase in the number of formal complaints that the Commission closed in this fiscal year as compared to the previous year;
- there has been a decrease in the length of time it takes to resolve cases in the Commission's caseload. The average is now down to fifteen months;

² These reforms are described in detail in the 1993-94 Annual Report.

³ Legislative Assembly of Ontario, *Standing Committee on Government Agencies: Report on Agencies, Boards and Commissions* (no. 20) (3rd Sess., 35 Parliament, 43 Elizabeth II) at 75.

- the number of cases over 3 years old has been reduced by 102 in comparison to the beginning of last year. This means that these cases now constitute 7% of the total Commission caseload, as compared to 15% in 1993.
- the Commission has developed guidelines and recommendations for dealing with race cases to assist officers in the investigation process.

These developments are the result of the organizational reforms which resulted from the improvement initiatives introduced at the Commission last year. An overview of the reforms, and the progress being made in each area is set out below.

II ORGANIZATIONAL REFORM

CASE MANAGEMENT

BASED ON TESTIMONY before the Standing Committee, there is growing interest in and expectations about greater transparency and accountability in the Commission's work. These expectations tend to focus on case management issues, ranging from the number of complaints in the system at any given time, to how long it takes to handle them, to how decisions are made about cases.

Competent, sensitive and timely service is a priority for both the Commission and the public. The *Quality and Quantity Assurance Program* was established last year to guide the Commission in its bid to deal fairly and consistently with a high volume of complaints, while maintaining the balance between productivity and fairness.

As part of its legal requirement to attempt to settle complaints, the Commission has continued to use its resources to bring the parties together whenever possible. This preliminary process is called the Early Settlement Initiative ("ESI"). The Commission endeavours to negotiate an agreement between the parties to a complaint in order to resolve their differences without a formal investigation by the Commission. In 1994-95, the Commission was able to resolve over one-third of all complaints in this way.

Moreover, the Commission's capacity to resolve formal complaints has also improved, with dramatic results for the older complaints in the system. "Formal complaints" are cases where no early settlement has been reached under the ESI and where a written, signed complaint is initiated. Formal complaints involve investigation, interviewing witnesses and obtaining evidence. Settlement remains an option at any stage of the proceedings.

The *Quality and Quantity Assurance Program* has also allowed Commission staff to develop better tools for resolving complaints. The results were readily obvious this year. In 1994-1995, with fewer resources, the Commission resolved a total of 2,105 complaints. In 1994-95, the Commission resolved 30% more formal complaints than it did in the previous year. Most important, fewer than 180 of the 2,407 complaints on file were more than three years old by the end of the fiscal year. This represents a 50% improvement in this category in relation to the beginning of the preceding year.

The need to balance productivity and fairness in the complaints system has been tested in a number of areas, and one important area for the Commission is its use of section 34 of the *Code*.

Section 34 (1) allows the Commission not to deal with complaints on the basis of certain limited circumstances.⁴ Section 34 has been law since 1981. However, in the past, the decision to use section 34 was often deferred to the end of the investigation. In 1992, a legislative development had important implications for the Commission by creating another forum for resolving disputes involving human rights. The Ontario *Labour Relations Act* was amended to empower labour arbitrators and boards to interpret and apply the provisions of the *Human Rights Code* in making decisions about grievances.

Certain witnesses before the Standing Committee on Government Agencies noted that section 34 was not adequately used, and that the Commission was taking on cases that were outside its mandate as a result. Other witnesses, such as community groups, were of the view that the Commission was using jurisdictional grounds to exclude *too many* complaints and for interpreting its mandate too narrowly.

The Commission is of the view that a fair, balanced policy is required that allows the Commission to use section 34 more appropriately, while still retaining a case-by-case approach to accepting complaints. After hearing the testimony of the various expert witnesses including advocacy groups, consultants and lawyers, the Standing Committee recommended that the Commission continue to use section 34 more rigorously.⁵ As a result, the Commission now responds to requests for a decision to be made under section 34 at the beginning of the complaints process.

While the Commission does have the discretion under section 34 to not deal with certain complaints, it also has the discretion to deal with cases where the public interest would be served. A particular case of discrimination may have widespread systemic implications, for example, and the Commission may agree to deal with it, even though it could have been channelled to another forum under other legislation.

For example, one complaint that the Commission dealt with this year involved a complainant whose union had already dealt with the matters that were later brought before the Commission. The

⁴ Section 34 (1) of the *Code* gives the Commission the discretion not to deal with a complaint if (a) it is more appropriately dealt with under other legislation, (b) if the complaint is trivial, frivolous, vexatious or made in bad faith, (c) if the complaint is not within the Commission's jurisdiction, or (d) if the complaint is filed more than six months after the occurrence of the events on which the complaint is based.

⁵ Standing Committee, *supra* note 3 at 82.

Commission decided to accept the complaint because of allegations that the union itself had behaved in a manner that had discriminated against women employees in the workplace, and because the union had not negotiated an adequate settlement for the complainant.

JUSTICE IN TIME

People who file complaints trust the Commission to deal with the protection of their rights in a timely manner. Similarly, persons or organizations against whom complaints are filed also want to see the situation dealt with quickly. The Commission has sought to identify those areas in the complaints process that create delays in order to reduce the time it takes to resolve complaints. One area that has been identified is the “pending” category, namely the time it takes to assign a complaint to an officer after a complaint has been filed. By the end of March, 1995 only 15% of formal complaints were awaiting assignment, compared to 44% the previous year.

Even after the complaint is dealt with by the Commission, delays can arise if the matter has been referred to a board of inquiry. A board of inquiry is an independent decision-making body that is entirely separate from the Commission. Scheduling difficulties of the parties or of the board of inquiry itself may cause some delays. While the Commission recognizes that delays serve no one in the process, these delays are, unfortunately, part of the litigation process. However, the Commission has been advised that full-time members will be appointed to the Office of the Board of Inquiry, thus increasing the likelihood of expedient processing of complaints before a Board.

CUSTOMER SERVICE

In human rights cases, the subject matter is often sensitive and emotionally charged. Many of the individuals who seek protection under the *Code* are vulnerable, financially or otherwise. Complainants or respondents who have the impression that their concerns are not being heard, feel that their human rights are being violated twice. The Commission recognizes the importance of listening to what our clients have to say and this year, the Chief Commissioner and senior staff met with the President of the Ontario Public Service Employees Union, as well as with representatives of the Ontario Nurses’ Association and the Ontario Federation of Labour, in order to respond to concerns about delays in processing cases, the approach to section 34 of the *Code* and a range of other issues.

RECONSIDERATION OF COMMISSION DECISIONS

If a complainant is dissatisfied with the Commission's handling of, or with its decision on a case, section 37 of the *Code* gives the complainant the right to apply for reconsideration. According to the *Code*, this request must be received within 15 days from the date that the Commission mailed the notice of its decision.

Once a reconsideration request is received, a reconsideration officer reviews the file and makes a recommendation to the Commission as to whether the original decision should be upheld or reversed.

At the beginning of last year, the Commission had 354 Reconsideration requests on file. The Commission assigned additional resources to assist in their resolution, and by the end of March, 1995 more than 130 of these files had been re-opened and dealt with.

TECHNOLOGY

Over the past two years, the Commission has increasingly come to recognize the key role that information technology plays in improving service to the public. The Technology Mentoring Program concluded in April, 1994 and achieved its primary goal of encouraging staff to use technology in their daily work.

To further streamline and enhance the use of technology, the Commission this year established an internal Information Technology Steering Committee with a mandate to maximize the use of available technology.

The Commission also began preparing a three-year technology plan. The primary objective of the plan is to develop a comprehensive technology and database architecture that will network all field offices, provide appropriate links to Head Office and implement a computerized case tracking and case management system.

TRAINING AND DEVELOPMENT

A highly trained workforce is critical to the agency's ability to fulfil its commitment to renewal. This year, staff participated in a change management program organized jointly by the Commission and Management Board Secretariat. The program was designed to facilitate transition through major changes within both the Commission and the Ontario Public Service as a whole. A series of sessions on customer service and dealing with challenging customers was also provided to human rights officers during this fiscal year.

(1) Handling Race-Based Complaints

In the past, the public has expressed concern about the Commission's handling of complaints based on race and, in particular, about staff training in this area. The Commission recognizes that race cases

frequently present unique problems in investigation and analysis, and that investigators benefit from training in the specific skills required to resolve these cases. A series of workshops was developed for decision-makers and case management staff about methods for handling race-based complaints. More than one hundred participants attended the two-day sessions.

(2) GUIDELINES AND RECOMMENDATIONS FOR DEALING WITH RACE CASES FROM INTAKE TO BOARD OF INQUIRY

The content of the sessions on race-based complaints was drawn from the Commission's *Guidelines and Recommendations for Dealing with Race Cases From Intake to Board of Inquiry* that were released to Commission staff in October, 1994. A resource kit accompanied these materials in order to provide research tools and background information to assist human rights officers in the fair, informed investigation of complaints based on race.

ORGANIZATIONAL HEALTH

Integrating anti-racism principles into the workplace is an integral feature of the Commission's program of reform. Part of the Commission's process of creating a barrier-free workplace includes the Employment Systems Review (ESR). The ESR was undertaken by the Commission in accordance with the requirements of the Ontario government's Accelerated Employment Equity Program. Through the ESR, the Commission is examining its own employment policies, practices and organizational culture in order to identify any internal barriers that may prevent full participation by all members of its workforce.

III ISSUES IN HUMAN RIGHTS

HANDICAP

FOR PERSONS WITH disabilities, access to services is fundamental to meaningful integration in society. Especially important are those services that lie at the heart of access and integration into today's world: educational services. Educational facilities that are not accessible to persons with physical disabilities are not only in violation of the *Code*, but they also become institutional symbols of the exclusionary policies that affect the disability community.

This year, the Commission and Trent University were parties to a major settlement arising out of the allegation that that University's facilities were not accessible enough to students with physical disabilities. A complaint had been initiated by the Commission in an effort to address the issue, and the matter was settled prior to a board of inquiry.

Under the terms of the settlement, Trent University made crucial changes such as relocating its Special Needs office to an area that was closer to an accessible entrance. It accelerated its program to improve physical access to its buildings and upgraded the position of Special Needs Coordinator to a full-time, year-round one. These initiatives were incorporated into the settlement agreement, which has allowed the University to become a model institution for other educational services.

SEX

RECOMMENDATION FOR LEGISLATIVE REFORM

An ongoing issue for women in employment is the way that they are treated as a result of maternity leave or parental leave. The denial of basic benefits during pregnancy and parental leave is part of the practical and financial burdens that have been placed on women who decide to have families.

The present state of the law in Ontario is that women on pregnancy or parental leave are excluded from group disability insurance plans. This exclusion is found in a regulation to the *Employment Standards Act*, which only the Ministry of Labour has the authority to amend. However, the Commission sought to address this issue by investigating and referring to boards of inquiry a number of complaints filed by women who claimed to have been disadvantaged by discriminatory insurance schemes. The complaints were settled without a definitive ruling.

In December, 1994 the Commission recommended that the Ministry of Labour amend the regulations to the *Employment Standards Act* to provide women with access to disability benefits during such periods of their pregnancy or parental leave that they would have been unable to work for health-related reasons.

Exclusionary Policies in Golf Clubs

The number of women in business and holding senior positions in our society has made it critical for women not to be blocked in accessing services and facilities that provide basic privileges, such as socializing and networking with clients and colleagues. One traditional haven for these activities is the Golf Club. It is not uncommon for women to discover that their access to such clubs is restricted during the very times when they would most want to have access to these services.

The Beach Grove Golf and Country Club prevented women from playing between 5 - 7 p.m. on weekdays and on Saturday mornings. These are obviously prime periods for the kind of business networking for which golf clubs are so popular. Tamra Jean Tobin was a member of Beach Grove and wanted to play during its peak times. She alleged in a complaint to the Commission that because she is a woman, the Club refused to allow her to do so. In May, 1994 the Commission negotiated a settlement that resulted in women receiving equal playing privileges at the Club.

In a precedent-setting agreement, the Club also agreed to pay Ms Tobin \$10,000 for general and specific damages, and agreed to amend their policies so that they do not discriminate against women.

Variety Stores Complaints

The availability of pornographic and sexually explicit materials in retail outlets and in communities has long been a source of controversy. The issue was raised through complaints that were filed by two women who objected to the display of sexually explicit magazines in three convenience stores where they shopped. The complainants alleged that the presence of these magazines created a "poisoned" environment against women who shopped at these stores.

In 1994-1995, one of the three *Variety Stores* complaints was settled. In the settlement, the respondent agreed that he would not sell sexually explicit magazines in any business he owned in the future. The remaining complaints are still before the Commission.

Female Genital Mutilation Task Force

In June, 1992 the World Health Organization issued a statement declaring female genital mutilation (FGM) to be a health concern, and urging health practitioners not to perform the procedure. It called on governments and women's organizations to "intensify educational

programmes to inform the public about the harmfulness of female circumcision". Countries such as Sweden, Kenya, the U.K. and France have since passed legislation banning the practice of FGM. The U.S. is studying the "Shroeder Bill", which calls for a program of legislation, education and outreach to prevent FGM.

In Ontario, our child protection laws permit a child to be taken into care if it is suspected that she is in danger of being subjected to the practice inside or outside of Canada. Because immigration has brought the at-risk communities to Canada, Ontario created an FGM Task Force in 1994 to look at the practice and to identify broad-based strategies for its prevention and eradication. The Task Force included representatives from provincial government ministries and agencies, including the Ontario Human Rights Commission, community groups, the federal government, and members of the broader public sector such as the College of Physicians and Surgeons.

SPECIAL PROGRAMS

Section 14 of the *Code* allows an employer to establish a special program designed to relieve hardship, or to assist disadvantaged persons or groups to achieve or attempt to achieve equality.

For example, the City of Toronto implemented an employment equity program for women and racial minorities in the fire department. Because of the public nature of the debate over the program and the potential for complaints under the *Code*, the Commission offered to intervene and to mediate between the City and the fire department. The Commission became part of the Firefighter Recruitment Work Group which had been created in 1993 to review the fire department's employment policies, and to find ways of increasing the representation of women, persons with disabilities, Aboriginal peoples and racial minorities in the department.

In September, 1994 the Working Group presented its findings in a draft report to City Council. The City of Toronto responded by seeking to increase the pool of applicants for positions in the fire department through advertisements in community newspapers, local publications and other forms of outreach.

RACE

THE SETTLEMENT WITH NORTHWESTERN GENERAL HOSPITAL

The *Code* gives the Commission authority to initiate or accept complaints that are systemic in nature. Systemic discrimination refers to the adverse impact of an organization's policies and practices on members of groups protected under the *Code*. The Commission screens all complaints to determine if there are systemic factors that warrant investigation beyond the allegations of the individual

complainant. One such recent example involved ten complaints against Northwestern General Hospital by racial minority nurses. The nurses alleged that they had been discriminated against on the ground of their race with regard to their treatment in the workplace, were denied advancement and were unfairly disciplined, to name a few. The Hospital denied the allegations. The complaints were investigated as a group, and a board of inquiry was appointed.

In April, 1994 the Commission announced the settlement of eight of the ten complaints. The other two are being conciliated separately. The settlement was reached with the help of an external mediator, Stephen Lewis. The Hospital granted financial compensation to seven of the nurses for a total of \$320,000. However, the settlement terms went beyond individual compensation to address deeper problems. The Hospital agreed, among other steps, to create the position of Vice-President of Ethno-Racial Equality. A Human Rights Committee was established to find ways to ensure that managers are accountable for their handling of racial issues, and to train all staff — including doctors and volunteers — in anti-racism principles.

EMPLOYMENT AGENCIES

Another major settlement involved two Toronto employment agencies. In 1991, the Commission had initiated two complaints against the agencies. The complaints were based on information that the agencies were engaging in racially discriminatory practices when responding to clients' requests for staff. In the resulting settlement, the agencies agreed to implement a series of anti-racism measures and to have the Commission monitor their progress over a three-year period. The Commission's enforcement initiative was fully implemented at the end of this fiscal year.

PLACE OF ORIGIN

Persons who receive their formal education and training outside of Ontario frequently require registration or accreditation in order to practice their profession or trade in this province. However, these applicants encounter difficulties in obtaining accreditation for their qualifications, and this has generated complaints to the Commission. Historically, complainants have alleged that the refusal to recognize their qualifications amounts to discrimination under the *Code* on the ground of place of origin.

In response, a provincial task force was created in 1988 to review foreign accreditation procedures. The *Task Force to study Access to Professions and Trades in Ontario* identified systemic policies and practices that act as barriers to individuals who receive their training outside of the province and the country. Recommendations for

systemic overhaul and elimination of these systemic barriers were put forward by both the Task Force and the *Stephen Lewis Report* (1992), many of which were being implemented following the approval of a Cabinet submission in September, 1992. As a result, appeals processes are now generally available for most registrable professions and trades. The Ministry of Citizenship also set up a permanent unit of the Program Development Branch to deal directly with these issues.

The Commission noted that it has historically received complaints alleging that difficulty in obtaining accreditation constitutes discrimination under the *Code*. However, because appeals procedures have become generally available, Commission investigators have been duplicating work already being done before accreditation bodies that are considering similar complaints. In December, 1994, the Commission decided to not deal with or to dismiss, as appropriate, complaints that challenge accreditation criteria where an appeals procedure exists through the accrediting body.

On the other hand, the Commission has also decided to continue to accept and investigate foreign accreditation complaints that raise allegations of differential treatment by accrediting or examining bodies because of any of the grounds protected by the *Code*.

SEXUAL ORIENTATION

Although sexual orientation is now a protected ground under the *Code*, it is unfortunately the case that gay and lesbian couples must seek legal redress in order to obtain benefits and advantages that normally accrue to heterosexual persons in conjugal relationships, such as medical and pension benefits.

The *Code* currently provides protection from discrimination on a number of grounds, including sexual orientation, in the area of services, goods and facilities, occupancy of accommodation, the right to enter into a contract, employment and membership in trade associations. The *Code*'s protection against harassment, however, does not extend to the ground of sexual orientation. The result is that there is no explicit protection from harassment in the area of accommodation and employment on the basis of sexual orientation.

In December, 1994 the Commission made a number of proposals to the Minister of Citizenship in order to strengthen the protection in the *Code* on the ground of sexual orientation. Although the Commission has taken the position before boards of inquiry that the *Code* should be interpreted so as to include the right to freedom from harassment in occupancy of accommodation and employment because of sexual orientation, this interpretation has not always been accepted by boards of inquiry.

The Commission has consistently forwarded the view that society's refusal to recognize gay and lesbian relationships is a form of prohibited discrimination under the *Code* on the basis of sexual orientation. In August 1992, a board of inquiry decided in the case of *Leshner v. Ministry of the Attorney General* that:

the definition of marital status in Section 10(1) of the Ontario Human Rights Code be read down by omitting the words "of the opposite sex" so that marital status means the status of being married, single, widowed, divorced or separated, and included the status of living with a person in a conjugal relationship outside marriage.

In 1994, the Commission recommended that the Government amend the *Code* to change the definition of "marital status" in section 10 of the *Code* to reflect the holding in *Leshner*.

IV PUBLIC EDUCATION

THE *CODE* REQUIRES the Commission to “develop and conduct programs of public information and education” and to “promote an understanding and acceptance” of the *Code*. In fulfilling its statutory mandate, the Commission has initiated a number of public education campaigns and information-sharing sessions. Some of these efforts have also been in response to rising numbers of requests from the public or from community groups and business organizations. Public education activities with significant implications for human rights practices, or that reach a wide audience, or that have the potential to strengthen partnerships with key community organizations, are given priority. Educational activities are conducted by the Public Policy and Public Education Branch, as well as by regional managers, senior management and by Commissioners.

Where Commission representatives are unable to attend an event, written materials are often provided at no charge to the requesting organization or, where appropriate, referrals are made to other specialized groups, such as community advocacy organizations or other government departments.

Public education activities conducted by the Commission this year included:

- reviewing and endorsing an educational kit about gay and lesbian issues in an eastern Ontario community;
- providing advice on anti-harassment policies being developed by a variety of employers, such as the Municipality of Clarington, the University of Western Ontario and the Sheraton Centre Hotel (Toronto);
- a seminar hosted by the Canada Employment Centre in Chatham for some 75 employers with 50 or more employees;
- assisting in the coordination of activities to mark World AIDS Day, held this year at Queen’s Park. The Commission also had its own information display at the event.

The Commission’s assistance was also sought by the Gaming Control Commission, the Brantford Police Services Board and the Ontario Federation of School Athletics Association on a variety of issues, including disability issues, gender equity and drug testing policies. Finally, the Commission also became part of a working group that is developing anti-discrimination and anti-harassment policies and guidelines for hospitals.

CANADIAN ASSOCIATION OF STATUTORY HUMAN RIGHTS AGENCIES

In mid-June of 1994, the Chief Commissioner attended the annual conference of the Canadian Association of Statutory Human Rights Agencies (CASHRA) in Fredericton, New Brunswick. An information package that was provided by the Chief Commissioner included policy guidelines developed by the Commission, as well as copies of key decisions of boards of inquiry.

TEACHING HUMAN RIGHTS IN ONTARIO

In March, 1995 the Commission published a new educational tool entitled *Teaching Human Rights in Ontario*. The package contains materials and handouts that are designed to introduce students to the protection of human rights under the *Code*, and the role of the Commission. The materials also help facilitate discussion about the rights and responsibilities that flow from the *Code*. *Teaching Human Rights in Ontario* is primarily intended for secondary school teachers of law courses and cooperative education programs. However, the resource package can also be used in other courses at the high school level, with little or no modification.

In the Preface to the package, Chief Commissioner Rosemary Brown stated:

Laws alone ... cannot guarantee the development of harmonious relations among groups of people, and a climate of understanding and mutual respect will not grow on its own initiative. Making that goal a reality calls for constant and careful nurturing and encouragement through a combination of strong legislation, active community programs and, above all, education.

The resource package is scheduled to be officially launched shortly, and the materials are being distributed to all public and private secondary schools in the province, in both English and French.

INTERNATIONAL HUMAN RIGHTS DAY

The Commission recognizes that creating a climate of understanding and respect requires the support and involvement of partners in the community. As such, it encouraged activities throughout the province to mark International Human Rights Day on December 10th. Commissioners delivered keynote addresses at 23 special Court of Canadian Citizenship ceremonies, and municipalities across Ontario were urged to proclaim International Human Rights Day.

V KEY HUMAN RIGHTS CASES

THE *HUMAN RIGHTS CODE* empowers the Commission to appoint a board of inquiry where the evidence warrants and where the procedure is appropriate. As a result of a legislative amendment this year, the Commission is no longer required to seek the order of the Minister to appoint a board of inquiry.⁶

Boards of inquiry establish key precedents and directions in human rights litigation. A board of inquiry is an independent decision-making body before which the Commission appears as a party representing the public interest. Unlike the Commission, a board of inquiry has the authority under the *Code* to make findings of fact, and to order any remedies which it deems appropriate.

CASES

Edwin Roberts v. Ontario (Ministry of Health) (Ontario Court of Appeal, August 16, 1994)

Section 14(1) of the *Code* allows organizations to develop "special programs". Special programs allow Ontario employers or other organizations to institute measures that relieve hardship or economic disadvantage, or that assist disadvantaged persons or groups to promote equality of opportunity. When someone claims to have been discriminated against by a special program in violation of the *Code*, the program may be reviewed by a board of inquiry which will then determine whether the program actually denies equality of opportunity instead of promoting it. This year, an important decision of the Court of Appeal established that a special program which denies equality of opportunity is *not* protected by the *Code*.

The complainant was considered to be legally blind. In August, 1986 he applied to the Assistive Devices Program of the Ministry of Health to obtain financial assistance to buy a device which would enable him to read. The device cost approximately \$3,000.

When he applied, he was 71 years of age. However, financial assistance for such devices was provided only to persons 18 years of age and under. As a consequence of this age restriction, he was denied financial assistance.

⁶ S.O. 1994 c. 27. Other amendments introduced in this Bill deal with the appointment of members to the board of inquiry. In addition, amendments to s. 33 of the *Code* provide that the Commission has the discretion to not investigate complaints. This latter provision is not in force.

The complainant filed a complaint with the Commission alleging that his right to freedom from discrimination on the basis of age in the provision of services was infringed. In 1989, a board of inquiry dismissed the complaint on the ground that the Assistive Devices Program was a “special program” protected by the *Code* and was therefore permitted to differentiate on the basis of age. The Commission’s appeal to the Divisional Court was dismissed for the same reason. The Commission then appealed the decision to the Court of Appeal.

The Court of Appeal allowed the appeal and held that the complainant should not have been arbitrarily refused assistance on the basis of his age. The fact that the Assistive Devices Program qualified as a special program under s. 14(1) of the *Code* did not mean that unreasonable or arbitrary discrimination was permitted under the program. The Court of Appeal further held that there must be a rational connection between the discrimination that is permitted by s. 14(1) and the purpose of the special program itself. In this case, no sustainable argument was made to justify why the Assistive Devices Program discriminated arbitrarily on the basis of age. In the absence of a rational connection between the age discrimination and the purpose of the Assistive Devices Program, the program was required to remove the discriminatory age restriction.

*OLIVER V. THE CORPORATION OF THE CITY OF
HAMILTON AND MAYOR ROBERT MORROW
(BOARD OF INQUIRY, MARCH 6, 1995)*

Municipal proclamations represent an important way for cities and towns of the province to express support for their citizens. Community groups often organize events to celebrate days of cultural significance and they seek the recognition of their own municipalities in doing so.

In 1991, Hamilton’s gay and lesbian community decided to organize a celebration. The celebration, dubbed Festival ’91, was scheduled to take place in June, 1991 to coincide with June 25, the traditional day of celebration for gay and lesbian pride. Mr. Joe Oliver, a member of the Gay and Lesbian Alliance of Hamilton (GALA) and the Coordinator of Festival ’91, asked the Mayor of Hamilton to issue a proclamation in celebration of Gay and Lesbian Pride Week during the period June 13-16, 1991. This request was refused, despite the fact that proclamations had been issued for numerous organizations in the past. Mr. Oliver filed a complaint with the Commission.

The board of inquiry upheld the request for a proclamation, deciding that the issuance of a Mayoral proclamation is a “service” within the meaning of the *Code*. The board did not agree with the Mayor’s position that what GALA was in effect seeking was a declaration of

political support. On this point, the board held that a proclamation is a privilege of office which is not beyond the reach of the *Code*. In this important ruling, the board decided that the refusal to issue a proclamation to this group amounted to discrimination contrary to s. 1 of the *Code*.

The board also found that the treatment of the complainant and GALA fits within the Supreme Court of Canada's definition of "discrimination" in *Andrews v. Law Society*. The board specifically stated that the inclusion of sexual orientation in provincial human rights codes demonstrates a political will to create a community in which one's sexual orientation is no longer considered a basis for exclusion.

The Mayor was ordered to pay \$5,000.00 to the complainant and was further ordered to proclaim Lesbian and Gay Pride Week in the City of Hamilton in June 1995, if requested to do so.

*TANYS QUESNEL v. LONDON EDUCATIONAL HEALTH CENTRE AND ROBERT BRENT EIDT
(ONTARIO BOARD OF INQUIRY, MARCH 28, 1995)*

In human rights law, the duty to accommodate must be carried out in a way that best meets the needs of the person. This should reflect respect for the person's autonomy and dignity. The limits of the duty to accommodate were put to the test this year in the case of *Tanys Quesnel v. London Educational Health Centre and Robert Brent Eidt*.

The complainant has a disability which requires her to use a wheelchair. When she attended at the London Educational Health Centre for her chiropractic appointment, she found the building was not accessible to wheelchairs. She filed a complaint, alleging that she could not access the building and that she was therefore denied equal treatment in respect of the chiropractic services offered by the respondents.

The respondents agreed that the complainant did have a handicap according to the *Code*. However, the respondents attacked the credibility of the complainant and her good faith, by alleging that the complainant should have known that the building was inaccessible and that she did not really need the chiropractic treatment in any event. The respondents also claimed that certain renovations that had been done in 1988 had complied with the applicable *Building Code* at the time.

The board found that the complainant's awareness of the inaccessibility of the premises was not a relevant factor when considering whether or not discrimination took place. The board also found that the complainant had a genuine reason to seek chiropractic treatment. Finally, compliance with building codes does not, in itself,

justify a breach of human rights legislation. The board referred to the Commission's "Guidelines for Assessing Accommodation Requirements for Persons with Disabilities" in assessing the nature of the duty to accommodate in this case.

In its decision, the board held that the respondents were liable for discriminatory treatment and were ordered to pay the complainant \$500.00 for the infringement of her rights. In addition, the respondents were requested to take immediate steps to provide wheelchair access by ramp to the first floor of the building and to use their best efforts to obtain whatever approvals may be required by municipal or other authorities.

Luis Espinoza v. Coldmatic Refrigeration of Canada Inc. et al. ((Ontario Board of Inquiry, 31 March 1995)

The effect of discriminatory behaviour or harassment can be a "poisoned environment", which results from a workplace that tolerates derogatory comments, or which allows colleagues or superiors to belittle a person's cultural background or language.

Luis Espinoza was originally from Ecuador. His mother tongue is Spanish, and Spanish-speaking workers in his workplace were frequently subjected to insulting and humiliating comments and obscenities by their co-workers. This behaviour was directed specifically at the use of Spanish, and the Spanish-speaking employees were subjected to arbitrary discipline, monitoring of their washroom breaks, and other abusive behaviour. The complainant was dismissed after he was involved in a fight provoked in part by a racial slur at his workplace.

A complaint was filed against the respondent company as well as its owner and the plant manager. The allegations were based on discrimination and harassment in the workplace on the grounds of race, colour, ancestry, place of origin and ethnic origin. The board heard expert testimony on poisoned work environments, and a large number of witnesses provided similar fact evidence from their own experiences that corroborated the complainant's allegations.

The board found that the complainant had been subjected to discrimination in the workplace on the basis of his ethnic origin and place of origin. The board found that language is one of the many identifying features of ethnic origin. The board ordered the respondents to pay special damages for lost wages in the amount of \$6,000, plus interest, as well as general damages of \$2,000. The respondents were also ordered to cease engaging in discriminatory activities based on race, colour, ancestry, ethnic origin or place of origin and to retain the services of a human rights consultant with

expertise in developing effective anti-racism procedures. The respondents were further ordered to display in a prominent place a copy of the Commission's policy on harassment as well as a copy of the *Code*. These documents had to be translated into the main language groups of the workplace and displayed in the same manner as the English versions.

VI LINKAGES

COMMUNITY GROUPS AND non-governmental organizations are important resources for success in educating the Ontario public about human rights, and in supporting community human rights efforts. For this reason, Commission staff this year have been involved in several ventures that consolidate existing relationships and create new ones.

The Commission met with representatives of the Sikh community to discuss concerns over the Canadian Legion's policy regarding the wearing of head gear on Legion premises. In addition, the Commission participated in discussions held by the Ontario Anti-Racism Secretariat to consider non-legislative measures for dealing with hate propaganda. A working group was also set up to prepare, through the Ontario Anti-Racism Secretariat, a public information brochure to be called *Hate Groups and Renting Your Hall/Premises*. In addition, representatives of the Commission met with representatives of the Ontario Region of the League for Human Rights of B'nai Brith to discuss areas in which the League is working that involve anti-discrimination and programs to combat racism.

The Commission was also part of an advisory committee comprised of representatives from government, community groups, school trustees, teachers' unions and publishers that provided assistance to the Anti-Racism, Access and Equity Division of the Ministry of Education and Training. The group is rewriting the Ministry's publication *Race, Religion and Culture in Ontario School Materials*. This document is designed to promote the principles of equality in the development and selection of learning materials, and to apprise publishers, authors and curriculum writers of the Ministry of Education's standards for materials that will reflect the experiences of its diverse school communities. The Commission also met with representatives of the Canadian Arab Federation to discuss issues relating to human rights affecting that community in Ontario.

INTERNATIONAL

As we move towards common understandings and standards of human rights, the relationships that the Commission forms with other human rights professionals and agencies are assuming greater importance. In the aftermath of the World Conference in Vienna in 1993, this work has significance for our own ethno-cultural relations in Canadian communities, as well as for our task in making new Canadians feel more welcome in this province.

The Ontario Human Rights Commission has shared advice with and provided assistance to human rights bodies and other organizations for many years. This is part of its tradition of supporting human rights initiatives, and especially those of public sector agencies. In addition, the Commission is a member of the Continuing Federal-Provincial-Territorial Committee of Officials responsible for Human Rights which provides expertise in respect of compliance with international human rights standards, information exchange and research on international human rights issues. Meeting with representatives of other Governments and human rights organizations provides the Commission with an important resource for assisting the Continuing Committee in its mandate. Such encounters also enrich the Commission's understanding of current human rights issues, both internationally and at home.

The Commission was pleased to host a number of such meetings this year, including one with a delegation from Thailand which was interested in information about human rights and public education. The Commission also received a representative of the Japanese government who was interested in equality issues and affirmative action programs for women in the workplace.

The Commission also provided information and research to the Faculty of Law at the University of Wollongong, Australia concerning the capacity of the Ontario *Human Rights Code* to address hate literature.

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BOARDS OF INQUIRY, 1994-95

FINAL DECISIONS

AGE

Anthony Wong v. Ottawa Board of Education and A. Wotherspoon

ANCESTRY

Aziz Chowdhury v. Welland Public Library Board et al.

COLOUR

Aziz Chowdhury v. Welland Public Library Board et al.

CREED

Ruth Eva Strauss v. LCBO et al.

ETHNIC ORIGIN

Aziz Chowdhury v. Welland Public Library Board et al.

Family Status

O'Neill & Coles v. Ministry of Transportation et al.

Jane Ward v. Fred Godina

HANDICAP

Patricia Barber v. Sears Canada Inc.

Terry Bolton v. Cancoil Thermal Corporation et al.

Margo Patricia Burns v. South Muskoka Memorial Hospital Board et al.

Ann M. Elkas v. The Blush Stop, Inc. et al.

Tanys Quesnel v. London Educational Health Centre et al.

Douglas Wellington v. Corporation of the City of Brampton Community Services Department

HARASSMENT

Margo Patricia Burns v. South Muskoka Memorial Hospital Board et al.

Aziz Chowdhury v. Welland Public Library Board et al.

Louise Moisan and Tammy Authier v. Theodore Lenssens and 837004 Ontario Ltd.

Donna Slobodian v. Adam's Warehouse Burlington Limited et al.

Ruth Eva Strauss v. LCBO et al.

Anthony Wong v. Ottawa Board of Education and A. Wotherspoon

MARITAL STATUS

John Belony v. Norman Kennedy

O'Neill & Coles v. Ministry of Transportation et al.

PLACE OF ORIGIN

Aziz Chowdhury v. Welland Public Library Board et al.

RACE

Som Nath Basu v. Love Printing Services Ltd. et al.

John Belony v. Norman Kennedy

Paula Chiswell v. Valdi Foods 1987 Inc. et al.

Aziz Chowdhury v. Welland Public Library Board et al.

Luis Espinoza v. Coldmatic Refrigeration of Canada et al.

Judith Gray v. A & W Food Service of Canada Ltd. et al.

Chippheng Hom v. Elijah Elieff and Elieff Investments Ltd.

Dilbagh Singh Khela v. J.I. Case Canada et al.

Lorna Richards v. Lorne Waisglass

Cecilia Segula v. Pat Ferrante Ball Packaging Products Inc.

Anthony Wong v. Ottawa Board of Education and A. Wotherspoon

SEX

Mary Grieves v. Admiral Sub et al.

Kerryann Henwood v. Gerry Van Wart Sales Inc. et al.

Lyne Leclair v. Dr. Armel Roberge

Donna Slobodian v. Adam's Warehouse Burlington Limited et al.

Beryl Wall v. Gary Embro and the University of Waterloo

Linda Williams and Donna MacDonald v. Art Park Ltd. and Bentall Fine Art Ltd. et al.

SEXUAL HARASSMENT

Kerryann Henwood v. Gerry Van Wart Sales Inc. et al.

SEXUAL ORIENTATION

Christine Crozier v. Murray Asselstine (Wilson)

Joe Oliver v. The Corporation of the City of Hamilton et al.

O'Neill & Coles v. Ministry of Transportation et al.

SEXUAL SORCITATION

Kerryann Henwood v. Gerry Van Wart Sales Inc. et al.

Louise Moisan and Tammy Authier v. Theodore Lenssens and 837004 Ontario Ltd.

Donna Slobodian v. Adam's Warehouse Burlington Limited et al.

BOARDS OF INQUIRY, 1994-95

SETTLEMENTS

AGE

Carol Geneau v. Quinte-St. Lawrence Local Apprenticeship Committee for the Electrical Trade

Frances Hysen v. The University of Toronto, Library Department

D. J. Morgan v. The Workers' Compensation Board

David Oksanen v. Kamsol Enterprises Ltd. and Sylvia Kamen

Laurie Veenendaal v. 564199 Ontario Limited c.o.b. as Gordon F. Thompkins Funeral Homes

ANCESTRY

Alvin Gibbs v. The Ministry of Community and Social Services et al.

COLOUR

Vida Agyeman and Joan Siung v. Geiger International Ltd.

Alvin Gibbs v. The Ministry of Community and Social Services et al.

Rupert Murray v. Allied Heat Treat Limited et al.

ETHNIC ORIGIN

Alvin Gibbs v. The Ministry of Community and Social Services et al.

Family Status

Julie Buckingham v. H&R Property Management Ltd. et al.

Barbara Cooper v. Bernard Cooper and Associates Limited et al.

Therese Hatchard v. Levinson-Viner Ltd. et al.

Rose Miller v. Fred Godina

Michael Radulovic and Terry Kneller v. Mura Properties Management et al.

Angiolina Villagra and Mary Williams v. Frank Leithinger & Josephine Leithinger

HANDICAP

Roland Andres v. Fort Frances-Rainy River Board of Education et al.
Ted Bec v. Windsor Raceway Inc.
Diane Burton v. York Central Hospital et al.
Wayne Card v. John A. Robertson Mechanical Contractors et al.
Sylvia Colalillo v. Drummond McCall Inc. et al
Marcia Doucette v. McDonnell Douglas Canada Ltd. et al.
James Malychuk v. The Canadian Corps Association et al.
Rose Miller v. Fred Godina
Marty Nobes v. Crowe Foundry Limited et al.
David Oksanen v. Kamsol Enterprises Ltd. and Sylvia Kamen
Helen Philips v. 648302 Ontario Ltd. c.o.b. Stellen Investments Ltd.
Dave Pyymaki v. Knechtel Wholesale Grocers
Julie Ramsay v. S.W.M. Investments Inc.
Lina Roy v. Notre Dame Hospital et al.
Isabelle Sinnett v. Pigeon Roy Insurance Brokers Ltd. et al.
Leslye Svoboda v. The Riverdale Hospital et al.
John Thomas v. Butcher Engineering et al.
Rita Tomlinson v. Falconbridge Ltd.
Elizabeth Toth v. Puffin Prints et al.
Shawn Wright v. Dominion Soil Investigation Ltd. et al.

HARASSMENT

Eleanor Brown v. DMO Industries, Al Steinfield & Bob Ouellette
Jennifer Ellis v. Myriad Holding Corporation Limited et al.
Rupert Murray v. Allied Heat Treat Limited et al.
Leslye Svoboda v. The Riverdale Hospital et al.
Tim Turner v. Weston Bakeries Ltd.

MARITAL STATUS

Shirley Heumann v. Teachers' Superannuation Commission

PLACE OF ORIGIN

Alvin Gibbs v. The Ministry of Community and Social Services et al.

RACE

Eleanor Brown v. DMO Industries, Al Steinfield & Bob Ouellette
Kevin Dignard v. The York Region Board of Education et al.
Christian, Dillon, Edwards et al. v. Northwestern General Hospital
Alvin Gibbs v. The Ministry of Community and Social Services et al.
Ivylyn Goffe v. Delmonte Company et al.
Durgas Dass Goyal v. Tilton Industries Inc. et al.
Andrea and Michael Lue v. Nicola and Richetta Fratangelo
Rupert Murray v. Allied Heat Treat Limited et al.
Lister Staines v. Treck Hall Limited et al.

RECEIPT OF PUBLIC ASSISTANCE

Therese Hatchard v. Levinson-Viner Ltd. et al.
David Oksanen v. Kamsol Enterprises Ltd. and Sylvia Kamen

REPRISAL

Bibi Eddo v. Capital-EMI Music Industries Inc. et al.
Jennifer Ellis v. Myriad Holding Corporation Limited et al.
Rupert Murray v. Allied Heat Treat Limited et al.

BOARDS OF INQUIRY, 1994-95

DIVISIONAL COURT

AGE

Danya Daccash and OHRC v. Paul Richards and Studio Ten:Ten

HANDICAP

Ontario Human Rights Commission and Gary Thornton v. North American Life Assurance Company, First North American Insurance Company and Clarendon Foundation

HARASSMENT

The Board of Governors of Brock University v. Ontario Human Rights Commission et al. (Mary Warner)

Danya Daccash and OHRC v. Paul Richards and Studio Ten:Ten

RACE

Ford Motor Company of Canada Ltd., et al. v. Ontario Human Rights Commission, Constance Backhouse, Mike Naraine

REPRISAL

The Board of Governors of Brock University v. Ontario Human Rights Commission et al. (Mary Warner)

Danya Daccash and OHRC v. Paul Richards and Studio Ten:Ten

SEX

The Board of Governors of Brock University v. Ontario Human Rights Commission et al. (Mary Warner)

Laura J. Cunningham v. Royal Canadian Legion Branch 594, Bill De Hart and Larry Fairbrother

Great Atlantic & Pacific Co. of Canada Limited v. Her Majesty the Queen in Right of Ontario (Diane Gale)

Tracy Jenner v. Pointe West Development Corp., and Dennis Laverty
Margaret Tomen v. Federation of Women Teachers et al.

SEXUAL HARASSMENT

Anita Hall v. A-1 Collision and Auto Service and Mohammed Latif

SEXUAL ORIENTATION

Ontario Blue Cross v. Ontario Human Rights Commission and Elizabeth Clinton

Ontario Human Rights Commission and Gary Thornton v. North American Life Assurance Company, First North American Insurance Company and Clarendon Foundation

SEXUAL SORICITATION

The Board of Governors of Brock University v. Ontario Human Rights Commission et al. (Mary Warner)

Danya Daccash and OHRC v. Paul Richards and Studio Ten:Ten
Anita Hall v. A-1 Collision and Auto Service and Mohammed Latif

BOARDS OF INQUIRY, 1994-95 COURT OF APPEAL

AGE

Ontario Human Rights Commission (Edwin Roberts) v. Ministry of Health

MARTIAL STATUS

Kelly Parks v. Christian Horizons and Lorraine Duran, and Holly MacIntyre v. Christian Horizons and Isobel Hudson

FINANCIAL STATEMENT

1994-95

THE COMMISSION'S APPROVED year-end allocation for the 1994-95 fiscal year was \$12,572,600. The Ontario Human Rights Commission operates 16 offices throughout the province, including a head office in Toronto. In addition to investigating and conciliating formal human rights complaints, the Commission's staff addressed 85,950 inquiries and made 31,986 referrals.

COMMISSIONERS

SECTION 27 of the *Human Rights Code* provides that the Commission be composed of no fewer than seven persons appointed by the Lieutenant Governor in Council.

The Chair of the Commission (Chief Commissioner) is a full-time position. Other members of the Commission serve on a part-time basis.

The Chief Commissioner chairs meetings of the Commission and the Vice-Chair presides over meetings of the Commission in the absence of the Chief Commissioner.

The Commissioners are selected to represent the diversity of Ontario, ensuring both complainant and respondent perspectives and preserving a balanced representation of groups protected under the *Human Rights Code*. In their decision-making, Commissioners are required to be impartial and to implement Ontario's public policy on human rights.

The following are biographical profiles of the Chief Commissioner and Commissioners for this year:

ROSEMARY BROWN (CHIEF COMMISSIONER)

Ms. Brown was appointed Chief Commissioner of the Ontario Human Rights Commission on June 4, 1993. She was the first Black woman to be elected to political office in Canada, serving 14 years as a member of the British Columbia Legislature from 1972 until her retirement in 1986. A champion of human rights, she has earned respect for her work in Canada and around the world. Ms. Brown is a patron of the National Council of Black Educators of Canada and the Vice-chairperson of the South African Educational Trust Fund. She received the National Black Coalition Award in 1972 and the Canadian Black Achievement award in 1994. Ms. Brown, who immigrated from Jamaica to Canada in 1950, is a member of the Privy Council and a member of Canada's Security Intelligence Review Committee. Her autobiography, *Being Brown*, was published by Random House in 1989.

LOUIS LENKINSKI (VICE-CHAIR)

Mr. Lenkinski was appointed Commissioner in July, 1987 and Vice-Chair of the Commission in 1994. A member of the Upholsterers' International Union for many years, Mr. Lenkinski served as its business representative from 1958 to 1969. Subsequently, he held the positions of Project Director and Executive Secretary to the Labour

Council of Metropolitan Toronto. In 1975, he became Executive Assistant to the Ontario Federation of Labour and in 1984, he was appointed to be a part-time member of the Ontario Labour Relations Board.

ANNE M. COX

Ms. Cox was appointed to the Commission in January, 1995. She is the Executive Director of the Thunder Bay Indian Friendship Centre. She has worked for Correctional Services Canada, Kinna-Aweya Legal Clinic and Ontario Native Women's Association. She is currently a member of the Ad Hoc Native Advisory Committee, Employment Equity Consultation Committee, Thunder Bay Police, the Aboriginal Management Council, and the Board of Governors for Confederation College.

IDA DEJESUS

Ms. DeJesus was appointed to the Commission in August, 1993. She is a lawyer currently working with the Labourer's International Union, Local 183 (the Prepaid Legal Benefits Fund). In addition to her professional background, Ms. DeJesus has been a member of the Board of Abrigo (Centre for Victims of Family Violence), a member of the Committee of the 40th Anniversary of the Portuguese Community, Chair of the Luso-Canadian Cultural Council of Hamilton and Vice-President of the Portuguese Canadian National Congress of Ontario.

ALBERTO DI GIOVANNI

Mr. Di Giovanni was appointed to the Commission in September, 1994. He is Director of Programs for the Canadian Centre for Italian Culture and Education, a post he has held since 1976. An expert in language education, he has written extensively on this subject, and from 1984 to 1988 was director of the Ontario Heritage Languages Association. He was a founding member of the Toronto Board of Education Race Relations Committee.

aida f. graff

Dr. Graff was appointed to the Commission in September, 1994. She is a research associate at the University of Toronto's Victoria College, where she served as Dean of Women from 1976 to 1990. She is currently President of the board of the Arab Community Centre of Toronto, a settlement and social service agency. She has served on the Ontario Anti-Racism Advisory Working Group, and has been a member of the Ontario Cabinet Roundtable on Anti-Racism.

ROBERT MILBOURNE

Mr. Milbourne was appointed to the Commission in July, 1992. A graduate of Metallurgical Engineering, Mr. Milbourne joined Stelco in 1963 and has worked in various positions leading up to his current position as President, Chief Operating Officer and member of the Board of Directors. He is a member of a number of associations including the Canadian Institute of Mining and Metallurgy and the Occupational Health Clinic for Ontario Workers.

RICHARD MILES

Before his appointment to the Commission in July, 1994. Mr. Miles held senior administrative positions with the Ministry of Community and Social Services, the Federal Secretariat of Disabled Persons Office, and most recently, Handicapped Action Group Incorporated in Thunder Bay. Mr. Miles was appointed by the Minister of Citizenship to the recently concluded Task Force conducting a procedural review of the Ontario Human Rights Commission.

ALOK MUKHERJEE

Mr. Mukherjee was appointed to the Commission in March, 1992 and became its Vice-Chair later that fall. Mr. Mukherjee is a consultant, trainer, and writer in anti-racist and multicultural education, race relations and human rights. He has served as the Race Relations Advisor to the Toronto Board of Education and has written on a variety of race relations issues. He is a member of the Doris Marshall Institute for Education and Action and has co-written a book on anti-racist education. In November, 1992 he assumed the role of Acting Chief Commissioner and resumed his position as Vice-Chair in June, 1993. Mr. Mukherjee's term expired in May, 1994.

GAETANE PHARAND

Ms. Pharand was appointed to the Commission in June, 1991. She was trained in business management and was recently employed as Events Coordinator with L'Association des professeurs des Collèges at Laurentian University and as communications officer at Radio Canada. She has been active in community service since 1988 and has served as vice-president of St. Eugene's Parish Council. Ms. Pharand's term expired in March, 1995.

BALJINDER SINGH SIDHU

Mr. Sidhu was appointed to the Commission in October, 1994. A senior engineer with Xerox of Canada Ltd., Mr. Sidhu is President of the National Alliance of Canadian Sikhs, an umbrella organization of social, educational, sports and religious Sikh groups and individuals from across Canada. He is also a member of the South Asian Steering Committee, which communicates concerns of the Sikh community to the Ontario government.

ELIZABETH HUNG SORFLEET

Ms. Hung Sorfleet was appointed to the Commission in October, 1994. She is the Director of the Cross-Cultural & Race Relations Institute, a consulting firm offering cross-cultural and anti-racism training and other organizational development services. In 1992, Ms. Hung Sorfleet organized Canada's first race relations conference for the police, community and media. She is currently on the Social Planning Council of Ottawa-Carleton.

TOM WARNER

Mr. Warner was appointed to the Commission in February, 1993. He is a senior executive at the Institute of Chartered Accountants of Ontario where his responsibilities include policy development and government relations on behalf of the profession. Mr. Warner has been a founder and member of such groups as the Coalition for Lesbian and Gay Rights in Ontario, the Right to Privacy Committee and the City of Toronto's Lesbian and Gay Issues Committee.

ST. CLAIR WHARTON

Mr. Wharton was appointed to the Commission in June, 1991. Before that, he was the President of Local 2858, United Steelworkers of America from 1985 to 1991, and served as vice-president from 1983-1985. He has a wide range of experiences on human rights issues, having served on a number of human rights committees within the Union, including the OFL Human Rights Committee and as a member of the Parkdale Action Committee against Racism. Mr. Wharton teaches human rights courses and conducts workshops for the union.

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TABLE 1:

COMPLAINTS BY REGION OF REGISTRATION & GROUND, 1994-95

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE(%)
EASTERN	45	15	17	55	48	15	21	7	7	112	8	-	1	8	1	360	15
HAMILTON/NIAGARA	21	4	4	18	27	6	22	5	8	62	2	-	2	-	1	182	7
NORTHERN	31	4	2	30	39	7	14	12	10	75	3	1	9	-	-	237	10
SOUTHWESTERN	56	12	3	42	56	5	58	4	6	130	8	-	-	9	1	390	16
TORONTO CENTRAL	106	28	16	50	50	20	38	10	15	97	4	-	7	1	-	442	18
TORONTO EAST	157	25	19	68	45	8	44	9	7	95	10	1	9	1	-	498	20
TORONTO WEST	134	5	4	33	34	2	21	6	7	83	6	-	7	-	1	343	14
TOTAL	550	93	65	296	299	63	218	53	60	654	41	2	35	19	4	2,452	100
PERCENTAGE(%)	22	4	3	12	12	3	9	2	2	27	2	0	1	1	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

TABLE 2:
COMPLAINTS RECEIVED BY PROVISION & GROUND, 1994-95

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE(%)
SERVICES	130	21	20	39	6	20	18	16	5	221	-	-	-	7	-	503	21
HOUSING	48	14	1	5	7	3	14	11	31	26	41	-	-	2	-	203	8
CONTRACTS	4	1	-	-	-	-	-	-	-	-	-	-	-	1	-	6	0
EMPLOYMENT	362	56	43	251	286	40	186	26	24	403	-	2	-	9	-	1,688	69
VOCATIONAL ASSOCIATION	6	1	1	1	-	-	-	-	-	4	-	-	-	-	-	13	1
REPRISAL	-	-	-	-	-	-	-	-	-	-	-	35	-	-	-	35	1
BREACH OF SETTLEMENT	-	-	-	-	-	-	-	-	-	-	-	-	-	4	-	4	0
TOTAL	550	93	65	296	299	63	218	53	60	654	41	2	35	19	4	2,452	100
PERCENTAGE(%)	22	4	3	12	12	3	9	2	2	27	2	0	1	1	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

TABLE 3:

SETTLEMENTS EFFECTED by GROUND, 1994-95

	Specific & General Damages	Complainants Receiving Damages	Offer of Job or Facility	Offer of, or Consideration for, Next Job or Facility	Affirmative Action Implemented	Seminars with Respondent Staff	Review of Policies or Documents	Issuance or Correction of References	Letter of Apology to Complainant	Written Declaration of Management Policies
RACE/COLOUR	\$284,714	64	16	6	2	6	36	13	24	89
ETHNIC ORIGIN ¹	\$199,640	10	2	1	-	4	10	1	10	9
CREED	\$45,100	3	2	-	-	-	4	1	1	6
SEX & PREGNANCY	\$218,716	41	12	5	1	3	16	8	10	34
SEXUAL HARASSMENT	\$232,845	68	4	-	-	8	28	15	33	65
SEXUAL ORIENTATION	\$10,970	5	2	-	-	-	9	2	1	7
AGE	\$232,168	13	2	4	-	-	16	7	5	20
MARITAL STATUS	\$3,370	5	6	1	-	1	6	1	6	4
FAMILY STATUS	\$13,000	5	6	1	-	-	7	1	6	12
HANDICAP	\$485,032	97	59	8	-	5	45	20	26	88
RECEIPT OF PUBLIC ASSISTANCE ²	\$3,254	4	5	2	-	2	11	2	5	8
OTHER	\$91,943	8	2	4	3	-	5	1	2	8
TOTAL	\$1,820,750	323	118	32	6	29	193	72	129	350

1. Citizenship, ancestry, place of origin

2. Only in accommodation

TABLE 4:

COMPLAINTS CLOSED BY PROVISION, DISPOSITION & GROUND, 1994-95

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	RBOSNG ⁴	TOTAL	PERCENTAGE(%)
EMPLOYMENT															
Board Appointed	4	1	1	8	7	4	1	1	1	4	-	-	-	32	2
Settled	87	18	8	76	107	8	43	9	11	147	-	1	1	516	34
Dismissed or not pursued	103	14	7	52	29	4	42	3	2	102	-	-	6	364	24
Withdrawn	131	19	10	120	95	11	50	13	6	137	-	-	-	592	39
TOTAL	325	52	26	256	238	27	136	26	20	390	-	1	7	1,504	100
ACCOMMODATION															
Board Appointed	-	-	-	-	-	-	-	-	4	-	2	-	-	6	3
Settled	14	1	1	-	5	-	6	7	11	13	23	-	-	81	47
Dismissed or not pursued	4	3	-	2	1	-	6	-	1	-	2	-	-	19	11
Withdrawn	13	1	-	1	1	1	4	3	14	7	20	-	1	66	38
TOTAL	31	5	1	3	7	1	16	10	30	20	47	-	1	172	100
SERVICES															
Board Appointed	1	-	-	1	-	1	-	-	-	1	-	-	-	4	1
Settled	34	6	6	10	3	11	7	1	3	64	-	-	-	145	39
Dismissed or not pursued	26	10	14	12	-	3	7	12	3	14	-	-	1	102	27
Withdrawn	26	6	3	7	-	3	1	4	2	70	-	-	-	122	33
TOTAL	87	22	23	30	3	18	15	17	8	149	-	-	1	373	100
CONTRACTS, VOCATIONAL ASSOCIATIONS, REPRISALS, BREACH OF SETTLEMENTS															
Board Appointed	-	-	-	-	-	-	-	-	-	-	-	-	4	4	7
Settled	3	-	-	-	-	-	-	1	-	-	-	-	11	15	27
Dismissed or not pursued	5	-	-	-	-	-	-	1	-	-	-	-	13	19	34
Withdrawn	1	1	-	2	1	-	1	-	-	2	-	-	10	18	32
TOTAL	9	1	-	2	1	-	1	2	-	2	-	-	38	56	100

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

4. RBOSNG—Reprisal, Breach of Settlement, No Grounds

TABLE 5:

Employment Complaints Closed by Disposition & Ground, 1994-95

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences ²	RBOSNG ³	TOTAL	PERCENTAGE(%)
RECRUITMENT & HIRING													
Board Appointed	1	-	-	-	-	1	-	1	1	-	-	4	2
Settled	12	4	-	10	-	18	4	6	15	1	1	71	36
Dismissed or not pursued	20	4	1	3	-	14	1	-	8	-	1	52	27
Withdrawn	23	6	-	17	-	11	-	-	12	-	-	69	35
TOTAL	56	14	1	30	0	44	5	7	36	1	2	196	100
PERCENTAGE(%)	29	7	1	15	0	22	3	4	18	1	1	100	
TERMINATION													
Board Appointed	2	-	1	6	-	-	-	-	3	-	-	12	2
Settled	45	7	4	42	3	14	5	3	97	-	-	220	31
Dismissed or not pursued	42	8	2	28	3	24	-	2	60	-	3	172	24
Withdrawn	75	10	6	70	5	31	11	3	89	-	-	300	43
TOTAL	164	25	13	146	11	69	16	8	249	0	3	704	100
PERCENTAGE(%)	23	4	2	21	2	10	2	1	35	0	0	100	
DURING EMPLOYMENT													
Board Appointed	1	1	-	2	4	-	1	-	-	-	-	9	2
Settled	30	7	4	24	5	11	-	2	35	-	-	118	32
Dismissed or not pursued	41	2	4	21	1	4	2	-	34	-	2	111	30
Withdrawn	33	3	4	33	6	8	2	3	36	-	-	128	35
TOTAL	105	13	12	80	16	23	5	5	105	0	2	366	100
PERCENTAGE(%)	29	4	3	22	4	6	1	1	29	0	1	100	
TOTAL⁴	325	52	26	256	27	136	26	20	390	1	7	1,266	

1. Citizenship, ancestry, place of origin

2. Only in employment

3. RBOSNG—Reprisal, Breach of Settlement, No Grounds

4. The total excludes 238 sexual harassment complaints

TABLE 6:

Employment Complaints Closed by Type of Work, 1994-95

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences ²	RBOSNG ³	TOTAL	PERCENTAGE(%)
Professional, Managerial, Technical	111	21	6	84	41	9	41	8	7	102	-	1	431	29
Sales	21	1	3	20	32	4	15	2	3	29	-	1	131	9
Clerical	45	5	1	59	74	1	14	6	5	54	-	-	264	18
Craft & Forepersons	22	3	2	8	8	1	14	-	-	17	-	-	75	5
Operatives	14	3	3	6	3	2	11	1	-	30	-	-	73	5
Services	28	2	3	31	48	4	12	2	2	23	-	1	156	10
Labour, General	78	17	7	43	21	6	19	7	3	118	-	3	322	21
Unspecified	6	-	1	5	11	-	10	-	-	17	1	1	52	3
TOTAL	325	52	26	256	238	27	136	26	20	390	1	7	1,504	100

1. Citizenship, ancestry, place of origin

2. Record of employment

3. RBOSNG—Reprisal, Breach of Settlement, No Grounds

TABLE 7:

COMPLAINTS CLOSED BY TYPE OF INDUSTRY, 1994-95

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	RBOSNG ⁴	TOTAL	PERCENTAGE(%)
	2	4	-	5	1	-	2	-	-	8	-	-	-	22	1
NATURAL RESOURCES															
MANUFACTURING															
Metals, Parts, Machinery	9	2	-	9	4	-	3	-	1	17	-	-	-	45	
Food, Tobacco	4	1	1	5	3	-	8	1	-	9	-	-	-	32	
Wood, Furniture, Paper	10	1	-	5	1	-	-	-	1	12	-	-	-	30	
Automotive, Aircraft	10	4	-	2	4	3	3	-	1	15	-	-	1	43	
Electrical	3	1	1	2	2	1	10	-	-	10	-	-	1	31	
Others	24	5	4	20	19	5	13	-	-	56	-	-	-	146	
Subtotal	60	14	6	43	33	9	37	1	3	119	0	0	2	327	16
CONSTRUCTION	2	-	-	2	2	-	2	-	1	6	-	-	-	15	1
TRANSPORTATION, UTILITIES & COMMUNICATION	32	2	1	7	7	1	6	3	-	20	-	-	-	79	4
TRADE & RETAIL	42	4	5	40	37	4	16	4	7	59	2	-	6	226	11
FINANCE, INSURANCE & REAL ESTATE	43	7	2	23	20	7	20	13	25	56	38	-	5	259	12
COMMUNITY, BUSINESS & PERSONAL SERVICES															
Schools, Colleges, Universities	34	10	7	14	5	2	8	-	-	64	-	1	3	148	
Hospitals, Physicians	34	10	6	29	15	2	11	2	1	72	-	-	10	192	
Employment agencies	3	1	-	-	1	-	1	1	-	1	-	-	-	8	
Hotels, Restaurants	28	6	2	28	43	4	13	4	3	20	-	-	4	155	
Others	89	8	11	64	61	9	28	12	10	67	-	-	6	365	
Subtotal	188	35	26	135	125	17	61	19	14	224	0	1	23	868	41
PUBLIC ADMINISTRATION	71	12	8	28	15	7	16	11	3	57	4	-	9	241	11
UNSPECIFIED/NOT APPLICABLE	12	2	2	8	9	1	8	4	5	12	3	-	2	68	3
TOTAL	452	80	50	291	249	46	168	55	58	561	47	1	47	2,105	100

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in Employment

4. RBOSNG—Reprisal, Breach of Settlement, No Grounds

APPENDIX

ONTARIO HUMAN RIGHTS COMMISSION
ANNUAL REPORT
1993-94 AND 1994-95

COMMISSION STRUCTURE

THE ONTARIO HUMAN Rights Commission (the “Commission”) is a Schedule I agency of the Ontario Government. The Commission administers the Ontario *Human Rights Code* and is accountable to the Legislature through the Minister of Citizenship.

OFFICE OF THE CHIEF COMMISSIONER

The *Office of the Chief Commissioner* ensures that the functions of the Commission are carried out in accordance with the provisions of the Ontario *Human Rights Code*. The Chief Commissioner provides strategic leadership to the Commission and ensures, through the Executive Director, the effective and efficient management of its operations, including case management and policy development.

OFFICE OF THE EXECUTIVE DIRECTOR

The *Office of the Executive Director* has administrative responsibility for the agency and directs all aspects of the operations of the agency. Operations are carried out by four branches:

REGIONAL SERVICES AND SYSTEMIC INVESTIGATION BRANCH

The *Regional Services and Systemic Investigation Branch* is the largest operation of the Commission. All the enforcement functions are incorporated into this Branch, including Regional Services, Case Management and Systemic Investigation. Regional Services include staff working at headquarters and 15 district offices in seven regions of Ontario.

The staff of the Branch’s district offices are, for the most part, the public’s first contact with the Commission. The primary activities of the staff are to handle intake, undertake investigations and facilitate conciliations in the large number of complaints filed each year.

The Branch also targets and investigates systemic practices which operate to unfairly disadvantage one or more groups protected under the *Code*. It develops precedent-setting cases and comprehensive model settlements through strategic enforcement designed to eliminate systemic barriers and put into place broad-based remedies.

The Branch is also responsible for developing strategies to address the Commission’s caseload, as well as maintaining accurate and up to date statistical information. This data is used to monitor the Commission’s caseload, and forms the basis of the Branch’s planning and strategy development. The Branch is responsible for ensuring Regional Managers are apprised of Case Management strategies.

LEGAL SERVICES BRANCH

The **Legal Services Branch** assists the Commission in fulfilling all legal aspects of its mandate, including compliance, public education and litigation. Its activities include providing legal advice to officers and regional managers concerning investigation and conciliation of cases, providing legal opinions requested by the Commission, and serving as legal counsel to the Commission before boards of inquiry and the courts on matters of judicial review and appeals. The Commission staff responsible for Reconsideration, reports to the Director of Legal Services.

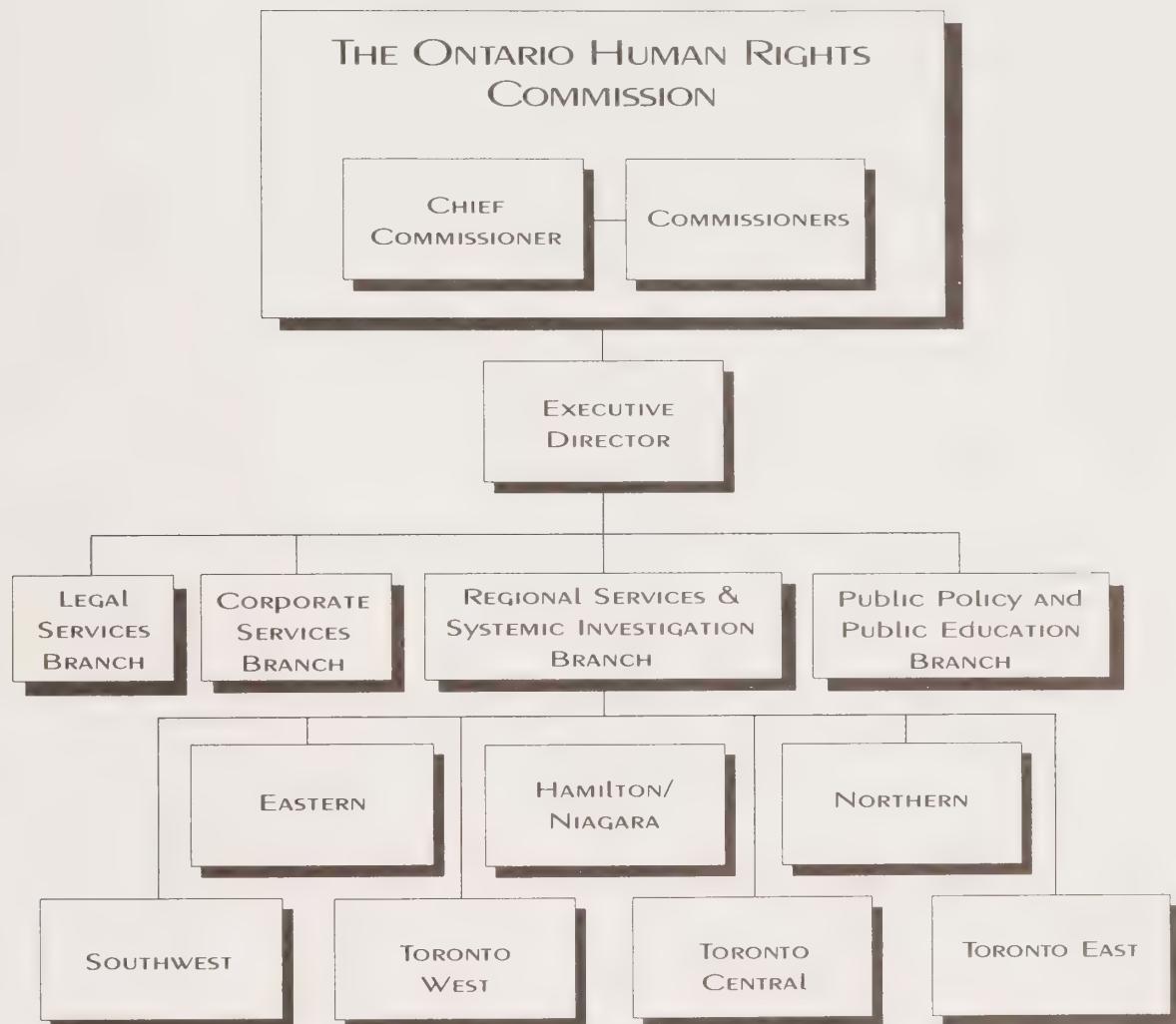
Public Policy AND Public Education Branch

The **Public Policy and Public Education Branch** provides leadership and direction for the planning, development and evaluation of the Commission's public policy and related public education functions. The Branch is also responsible for external communications, community consultations and media relations. The Branch prepares guidelines and written policies on the interpretation and application of provisions of the *Code*, researches a broad range of human rights, legal and social equity issues, advises individuals and organizations on human rights issues, provides support to the offices of the Chief Commissioner and Executive Director, and represents the Commission on intergovernmental committees, task forces and delegations. The Branch fosters understanding of and voluntary compliance with, the principles of the *Code* through a range of public education and communications initiatives.

CORPORATE SERVICES BRANCH

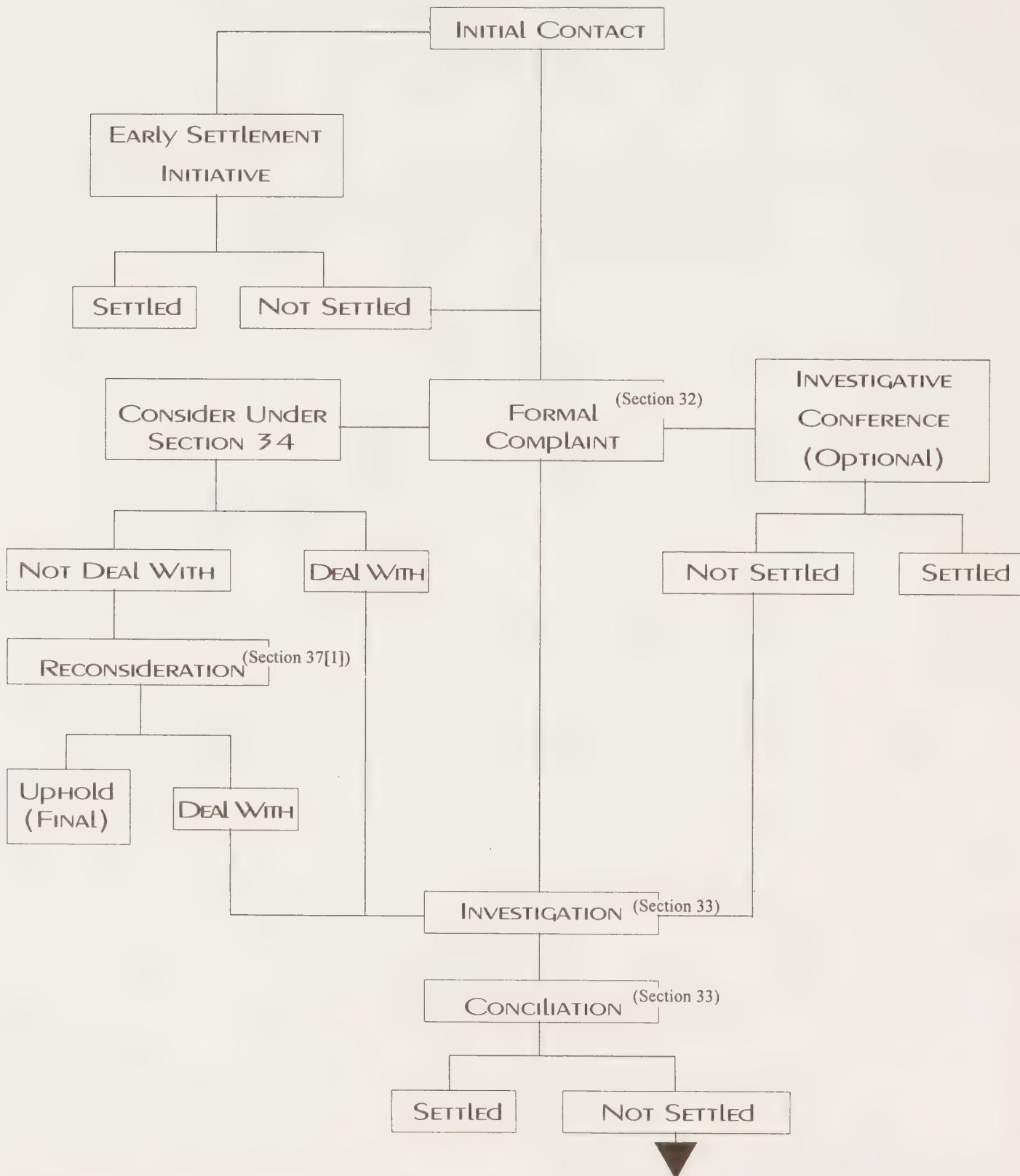
The **Corporate Services Branch** provides service to the Commission in the areas of human resources, operational planning, and finance and administration through the development and implementation of sound management policies and practices. Branch systems development and maintenance activities support the use of information technology within the Commission. The Learning Unit provides staff with training opportunities through the development and design of effective learning programs. The coordination of internal communications and the distribution of publications to the public are branch responsibilities. The Branch also ensures Commission compliance with the requirements of the *Freedom of Information and Protection of Privacy Act* and coordinates responses to Ombudsman enquiries. In partnership with other Branches, the Corporate Services Branch coordinates the implementation of the Commission's Organizational Improvement Initiatives.

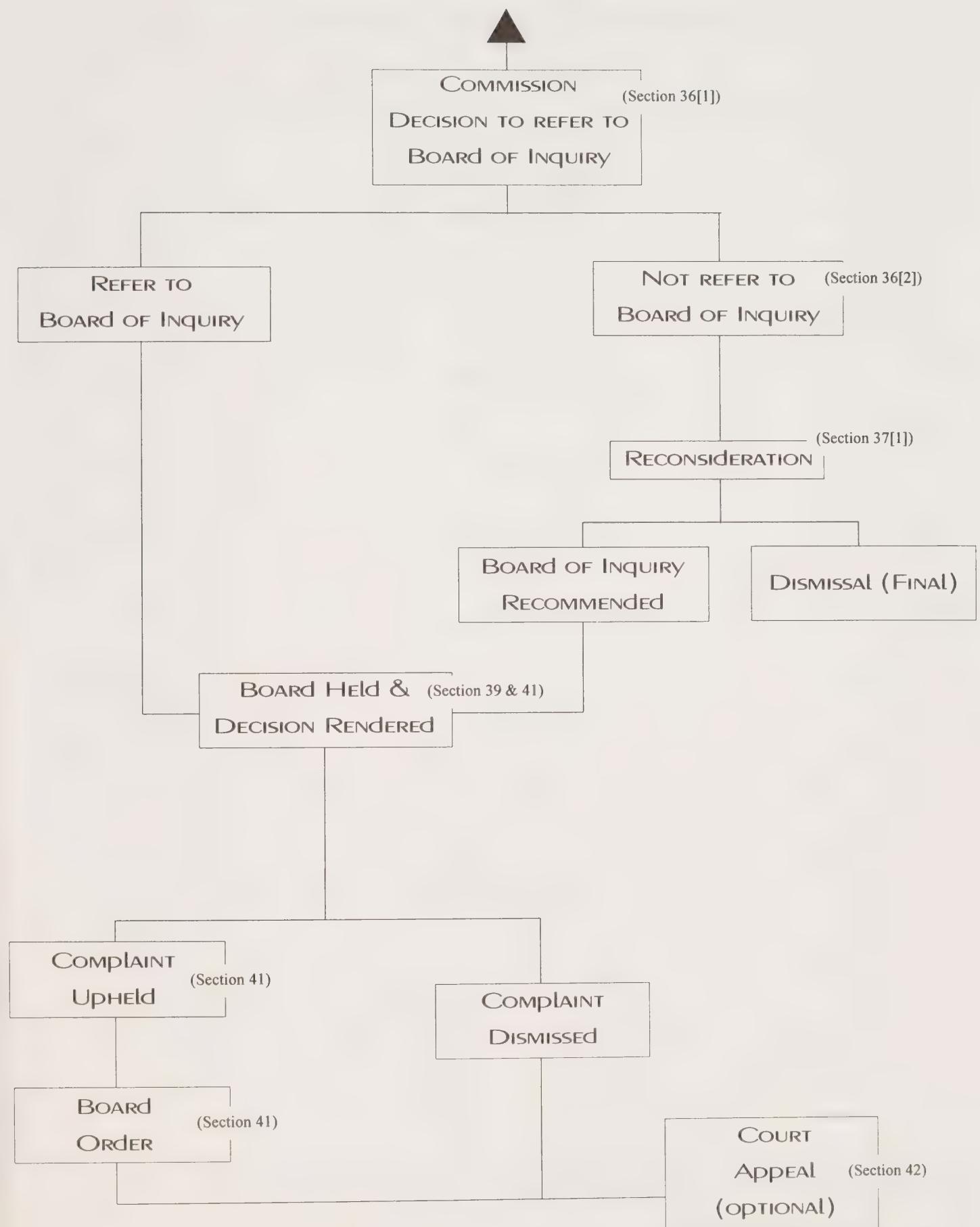
ORGANIZATIONAL CHART



COMPLAINT PROCESSING

Flow CHART





OFFICE LOCATIONS

Hamilton

110 King Street West
Suite 310
L8P 4S6
Tel: (905) 521-7870
1-800-263-9344
TDD: (905) 546-8278

Kenora

227 2nd Street South
3rd Floor
P9N 1G1
Tel: (807) 468-2866

Kingston

80 Queen Street
Suite 202
K7K 6W7
Tel: (613) 548-6750
1-800-461-2958
TDD: (800) 267-5755

Kitchener

824 King Street West
Suite 101
N2G 1G1
Tel: (519) 571-6078
1-800-263-9525

London

231 Dundas Street
Suite 303
N6A 1H1
Tel: (519) 661-6600
1-800-268-8333
TDD: (519) 661-0544

Mississauga

1290 Central Parkway West
Suite 304
L5C 4R3
Tel: (905) 273-7811
1-800-268-2808
TDD: (905) 273-6648

Ottawa

255 Albert Street
Suite 401
K1P 6A9
Tel: (613) 232-0489
1-800-661-0228
TDD: (613) 232-3909

Sault Ste. Marie

390 Bay Street
3rd Floor
P6A 1X2
Tel: (705) 942-8417
1-800-461-0051

Scarborough

10 Milner Business Court
Suite 404
M1B 3C6
Tel: (416) 314-3555
1-800-268-6585
TDD: (416) 314-3572

St. Catharines

1 St. Paul Street
Suite 603
L2R 7L4
Tel: (905) 684-7406
1-800-263-4916
TDD (905) 684-1103

Sudbury

159 Cedar Street
2nd Floor
P3E 6A5
Tel: (705) 670-7222
1-800-461-6259
TDD: (705) 675-6392

Thunder Bay

28 North Cumberland St.
Suite 403
P7A 4K9
Tel: (807) 343-6003
1-800-465-8996

Timmins

210 Spruce St. South
Suite 103
P4N 2M5
Tel: (705) 268-2838
1-800-461-7863

Toronto Central

595 Bay Street
4th Floor
M5G 2C2
Tel: (416) 326-9511
TDD: (416) 326-9669

Windsor

215 Eugenie Street West
Suite 100
N8X 2X7
Tel: (519) 973-1370
1-800-263-1604
TDD: (519) 966-8237

Headquarters

180 Dundas Street West
Toronto, Ontario
M7A 2R9
Tel: (416) 314-4500
1-800-387-9080
TDD: (416) 314-4535

Toll-Free Long Distance: If you are outside the local area and within the area code, call the number listed under 1-800.

Publications of the Commission

Human Rights Code, 1981 [updated 1990] (available through the Government of Ontario Bookstore)

Employment Application Forms & Interviews

Guidelines for Assessing Accommodation Requirements for Persons with Disabilities

Human Rights: Accommodation of Persons with Disabilities

Human Rights and Sexual Harassment

Policy on Sexual Harassment & Inappropriate Gender-related Comment and Conduct (as of November 1993)

Sexual Harassment and Other Comments or Actions about a Person's Sex (as of November 1993)

OHRC Policy Statement on HIV/AIDS-related discrimination

Exceptions to the Equality Rights Provision of the Human Rights Code in the Workplace

Policy on Racial Slurs & Harassment & Racial Jokes

Racial Slurs & Harassment & Racial Jokes (pamphlet)

OHRC Policy Statement on Height and Weight Requirements

Annual Report

Policy on Drug & Alcohol Testing

Policy on Driver's Licence as a Condition of Employment

Policy on Employment-related Medical Information

Declaration of Management Policy

Guidelines on Special Programs

If You Have a Human Rights Complaint

Know Your Rights Series:

—*Sexual Orientation and the Human Rights Code*

—*AIDS & AIDS-related Illness and the Human Rights Code*

Human Rights in Ontario

Discrimination Because of Handicap

Guidelines for Internal Human Rights Complaint Resolution Procedures

Policy Statement with Respect to Exclusionary Scholarships

LIBRARIES WHERE BOARD DECISIONS CAN BE FOUND

University of Toronto
Bora Laskin Library
78 Queen's Park
Toronto, Ontario
M5S 2C5

York University
Law Library
4700 Keele Street
Downsview, Ontario
M3J 2R5

Legislative Library
Legislative Building
3rd Floor, North Wing
Queen's Park
Toronto, Ontario
M7A 1A9

The Great Library
Osgoode Hall
The Law Society of Upper Canada
130 Queen Street West
Toronto, Ontario
M5H 2N6

Ministry of Labour Library
400 University Avenue
10th Floor
Toronto, Ontario
M7A 2R9

**Metropolitan Toronto Reference
Library**
789 Yonge Street
Toronto, Ontario
M4W 2G8

University of Ottawa Library
550 Cumberland Street
Ottawa, Ontario
K1N 6N5

Carleton University Library
Ottawa, Ontario
K1S 5B6

Brock University Library
500 Glenridge Avenue
St. Catharines, Ontario
L2S 3A1

University of Waterloo Library
200 University Avenue west
Waterloo, Ontario
N2L 3G1

**University of Western Ontario
Library**
London, Ontario
N6A 3K7

Queens University Library
Kingston, Ontario
K7L 3N6

McMaster University Library
Hamilton, Ontario
L8S 4L8

University of Windsor Library
401 Sunset Avenue
Windsor, Ontario
N9B 3P4

Lakehead University Library
Oliver Road
Thunder Bay, Ontario
P7B 5E1

Laurentian University Library
Sudbury, Ontario
P3E 2C6

Library of Parliament
Wellington Street
Parliament Hill,
Central Block
Ottawa, Ontario
K1A 0A9

University of Ottawa
Human Rights Research and
Education Centre
57 Louis Pasteur
Ottawa, Ontario
K1N 6N5

Hamilton Public Library
55 York Blvd.
Hamilton, Ontario
L8N 4E4

Kingston Public Library
130 Johnson Street
Kingston, Ontario
K7L 1X8

Kitchener Public Library
85 Queen Street North
Kitchener, Ontario
N2H 2H1

London Public Library
305 Queens Avenue
London, Ontario
N6B 3L7

Ottawa Public Library
120 Metcalfe Street
Ottawa, Ontario
K1P 5M2

St. Catharines Public Library
54 Church Street
St. Catharines, Ontario
L2R 7K2

Thunder Bay Public Library
285 Red River Road
Thunder Bay, Ontario
P7B 1A9

Waterloo Public Library
35 Albert Street
Waterloo, Ontario
N2L 5E2

Windsor Public Library
850 Ouellette Avenue
Windsor, Ontario
N9A 4M9

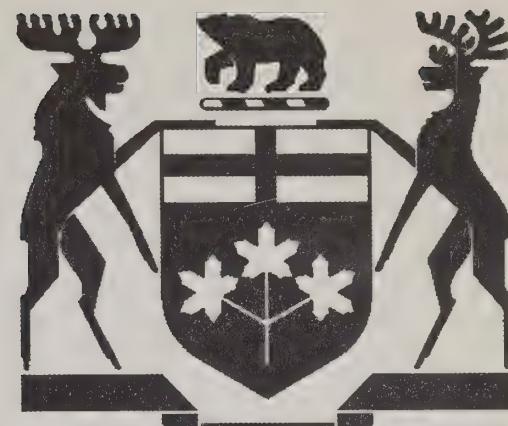
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Ontario

Human

Rights

Commission



ANNUAL REPORT

1995-1996

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IN MEMORIAM

The Canadian human rights community lost one of its best friends with the untimely passing of Vice-Chair Louis Lenkinski in June of 1995.

A Holocaust survivor who experienced first-hand the horrors of Nazi Germany, and later the Polish Communist regime, Mr. Lenkinski dedicated himself to the struggle against injustice, and to the preservation of human dignity and democratic principles. Remembering from those experiences the danger of remaining silent in the face of inequity, he lived his life with courage and commitment.

Social justice was his calling and his passion. Whether through his decades of union efforts on behalf of the rights of workers or through his community activism in the area of anti-discrimination and anti-hate work, Mr. Lenkinski was at the forefront of the fight against injustice.

His contributions to the work of human rights, and particularly to the work of the Ontario Human Rights Commission, were legion; his eloquence, legend.

We have lost a wonderful person, a fine and principled community stalwart whose daily life reflected his commitment to human rights and justice. We mourn his passing, even as we are comforted by the legacy and challenge he provided us in our pursuit of equality.

Ontario Human
Rights Commission

Chief Commissioner

180 Dundas Street West
Toronto ON M7A 2R9
Tel (416) 314-4541

Commission ontarienne
des droits de la personne

Commissaire en chef

180 rue Dundas ouest
Toronto ON M7A 2R9
Tél (416) 314-4541



June 28, 1996

Honourable Marilyn Mushinski
Minister of Citizenship, Culture and Recreation
6th Floor, 77 Bloor Street West
Toronto, Ontario
M7A 2R9

Dear Minister:

Pursuant to Section 31(1) of the Ontario *Human Rights Code*, it is my pleasure to provide to you the Annual Report of the Ontario Human Rights Commission for the fiscal year 1995-1996 for submission to the Legislative Assembly of Ontario.

This report reflects the activities of the Commission to March 31, 1996.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Rosemary Brown".

Rosemary Brown, P.C.
Chief Commissioner

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Reflecting on the past three years of the Commission's history leads unequivocally to the recognition of how much can be accomplished when the seeds of organizational change are planted and carefully nurtured over time.

When I arrived at the Commission in June, 1993, the Commission was mired in a backlog of complaints. While a special task force set up the previous year worked tirelessly to resolve the most long-standing complaints, Regional Services and Systemic Investigation staff focused their efforts on stemming the tide of a growing number of newer cases.

This state called for drastic measures, and the Commission rose to the challenge through the implementation of a series of organizational improvement initiatives designed to improve the efficiency and effectiveness of the Commission.

Proposed initiatives encompassed a broad range of improvements — improved quality of work and productivity of staff, better customer service, revised enforcement procedures, improvements in the Commission's technological capacity to process and monitor cases, a more effective and efficient organizational structure, enhanced internal accountability, a new emphasis on staff training and development, and finally the development of an anti-racism strategy for the Commission as both employer and service provider. With the commencement of these initiatives in the spring of 1993, the seeds were sown for much needed organizational improvement.

We are now beginning to reap the benefits of those earlier efforts. Over the past three years, there has been a marked increase in staff productivity, with the average cases closed by each officer increasing from 16 to 30 per year. Formal case closings have moved from 2,069 in March 31, 1994 to 2,899 in March 31, 1996. These improvements in case processing have been achieved despite a significant and steady increase in formal case openings [with case openings exceeding case closings each year]; decreasing resources resulting from budgetary reductions; and a recent work disruption arising from the 1996 OPSEU strike.

In addition to these accomplishments, the average age of cases in the caseload is decreasing, with the average case moving from 22 months of age in 1992 to 15 months as of March 31, 1996.

The Commission has carefully reviewed its enforcement procedures to ensure the most effective and efficient handling of complaints. Consistent with the July, 1993 report of the Standing Committee on Agencies, Boards and Commissions, for example, the Commission has made rigorous use of section 34 of the *Code* in an effort to address complaints that are more appropriately dealt with under another Act; that are trivial, frivolous, vexatious or made in bad faith; that are outside the jurisdiction of the Commission; or that are filed in excess of six months after the events upon which they are based. Measures such as this, have further enabled the organization to more effectively direct resources to those complaints that require investigation by the Commission.

In the area of cases under reconsideration by the Commission, there have also been remarkable gains. Changes in technology and careful review of the legal criteria necessary to meet the requirements of section 37 of the *Code* have resulted in more efficient case processing, with fewer than 10 cases currently under active investigation.

Beyond improvements in productivity over the past three years, the Commission has invested in numerous training initiatives designed to enhance the way in which cases are handled by staff. Not only have training initiatives made for better productivity, they have also enabled staff to provide a higher quality of service to the public.

In an effort to better serve the public, the Commission has also established an independent Trustee of Investigation to investigate complaints against the agency itself. The *Code* presently requires the Commission to investigate all complaints of discrimination, subject to section 34. The need to ensure a fair, impartial process and to avoid any real or perceived conflict of interest, has led the Commission to establish an independent Trustee of Investigation to oversee the investigation of such complaints.

While some of the planned improvements have already yielded positive results, others are still in progress. The Commission's organizational restructuring, for example, has resulted in a new and more efficient structure at the Director level, with the final director position, Director of Public Policy and Public Education, filled as of August, 1995. The subsequent branch level restructuring which completes the initiative is planned for announcement in the spring of 1996. Once all phases of the restructuring are complete, it is anticipated that the Commission will be a leaner, more rational and cost-effective organization.

Notwithstanding organizational improvements in progress, the Commission has continued to carry out its valuable work. While the focus on enforcement and the processing of the approximate 2,000 individual complaints filed annually has often meant that the proactive work has suffered, the Commission has continued in its attempt to address issues of systemic discrimination and to carry out public education.

Over these past three years, I have had the privilege of overseeing a number of major Commission initiatives that have undoubtedly changed the landscape of human rights in Ontario. One such initiative in the health care sector involved the investigation of a group of ten complaints against Northwestern General Hospital, in which racial minority nurses alleged that the hospital was discriminating against them on the basis of their race and colour. With the assistance of an external mediator, the Commission was instrumental in effecting a settlement that included compensation to individual nurses and a number of proactive policy changes to the hospital, itself. The Commission has since remained involved as a resource to the hospital's Vice-President, Ethno-Racial Equality in the development and implementation of an anti-racism action plan. Arising in part out of this initiative and the broader concerns of the Ministry of Health, a special sub-committee of the Ministry of Health's Joint Policy and Planning Committee (Ontario Hospital Association Anti-Racism Project Task Force) was set up to address anti-racism strategies in the hospital sector. The Commission has also served as a resource to this task force.

Consistent with international condemnation of the practice of Female Genital Mutilation (FGM), the Commission has also participated on a provincial inter-ministerial task force to eradicate the practice. At the 1995 conference of the Canadian Association of Statutory Human Rights Agencies, the Commission introduced a resolution calling for the provision of information to all prospective immigrants to Canada to inform them that FGM is not an accepted practice in Canada. Since that time, the Commission has developed a policy on the subject of female genital mutilation to be released in the late spring of 1996.

While over the past three years, public education activities have been somewhat curtailed in an effort to address case management issues, the Commission has attempted to maximize its resources through broad-reaching initiatives such as the development of a training package for high school students. *Teaching*

Human Rights in Ontario has been distributed to all secondary schools and school boards throughout the province of Ontario, and to all statutory human rights agencies across Canada.

A lack of resources has also hampered the Commission's efforts to work more actively with other Commissions, both within and outside of Canada. Globalization has resulted in an increasing awareness of the need for a broader, international focus on human rights. Despite fiscal constraints, the Commission has continued to attempt to work with commissions and government agencies outside of Canada, including those of South Africa, Japan, Bermuda and, most recently, India, in an effort to promote the broader goals of equality.

Like other areas of government, however, the Commission has experienced increasing fiscal constraints. The current climate of economic uncertainty and growing debt, ensure that these constraints will continue. All the while, new issues are emerging in this new environment — employer downsizing, drastic increases in unemployment, and a larger group of Ontarians finding themselves on the other side of the poverty line, to name only a few. These developments are sure to be felt by the Commission. This year alone, over 73% of the growing caseload was comprised of employment-related complaints. The increasingly multicultural composition of Ontario, the government decision to repeal employment equity legislation, and the evident rise in hate-motivated activities will surely add their own unique pressures. These issues will require the attention of the Commission over the coming years, especially since it appears that the new challenges will be accompanied by fewer resources with which to address them.

I am confident however, that Ontario with its historical respect for human rights, is better positioned than any other province to meet these challenges. As the first Canadian jurisdiction to prohibit slavery and to enact human rights legislation as we now know it, Ontario is in the unique position of having blazed the trail for others to follow. I am also confident that given adequate resources, our efforts toward organizational change will provide the soundest of foundations for this pursuit. As I approach the completion of my term as Chief Commissioner, it is my hope that the Commission will be able to continue to respond to these most difficult challenges to the principle of equality.

Rosemary Brown, P.C.
Chief Commissioner

INTRODUCTION

This year, Ontario faced significant new challenges on the legislative, social and economic fronts. There has been a concerted focus on reducing spending and on creating new efficiencies in government. Some of the new policies and fiscal directions have had an impact on groups working on equity and social issues. It would be difficult, if not impossible, to report on the Commission's work without noting some of these and other changes and commenting on their broader impact on human rights and social justice issues in Ontario.

The examination of government's role in promoting equality in the workplace has resulted in important legislative and non-legislative changes. First, Bill 7 brought in changes to the *Labour Relations Act*, including an amendment which reinforced the authority of labour arbitrators and boards to interpret and apply human rights law when hearing labour grievances. Consequently, human rights law is being dealt with on an increasing basis in the labour context. This trend is consistent with the position that the Commission has taken for several years, namely, that where a matter could or should be dealt with under another Act, such as the *Labour Relations Act*, the Commission should refer the matter to the appropriate Act. This not only avoids duplication and wasted resources, but it also ensures that human rights questions are properly addressed in the correct forum.

Second, the Ontario Legislature passed Bill 8 — *A Bill to Repeal Job Quotas and to Restore Merit-Based Employment Practices in Ontario* — on December 13, 1995. Bill 8 repealed the *Employment Equity Act* and made consequential amendments to other legislation, including the *Human Rights Code* (the “*Code*”). It is too early to assess the impact of Bill 8 on the number of complaints before the Commission. However, the immediate result has been that section 14 of the *Code* has become the only legislation in Ontario that shields employers from allegations of discrimination when they initiate programs to assist designated groups or historically disadvantaged groups (“special programs”). The Commission has received several inquiries from businesses and organizations concerning the implementation of special programs under the *Code*. While the

Commission already has interpretive guidelines on special programs, the guidelines are being revised and updated in order to reflect the new legislative environment.

After the *Employment Equity Act* was repealed, the Minister of Citizenship, Culture and Recreation announced her intention to develop an “Equal Opportunity Plan” in order to achieve equality and diversity in the workplace. Although the *Code* was identified in the Plan as the legislative tool for protection against discrimination in Ontario, the Equal Opportunity Plan was designed to be voluntary and to be administered separately by the Ministry of Citizenship, Culture and Recreation. The Commission awaits the release of the Equal Opportunity Plan with interest.

The changes to spending and policy priorities at all levels of government have had an impact on other social justice issues as well. For example, the extent of the right to accessible transportation for persons with disabilities and the right to social assistance attracted extensive attention from the media and from non-governmental organizations, individuals, church groups and advocacy associations who were concerned about the impact on disadvantaged groups. Certain groups, notably persons with disabilities, are protected by the *Code*, and there have been complaints to the Commission in respect of some of these issues.

Other changes of note this year involved the Ontario Anti-Racism Secretariat (“OARS”) and the Pay Equity Commission. OARS was merged into a new Citizenship Division of the Ministry of Citizenship, Culture and Recreation. Prior to that, OARS had been responsible for, *inter alia*, race relations, funding community education and training programs and for conducting projects designed to combat hate. In January, 1996 the *Pay Equity Act* was amended by phasing out the “proxy method” which was used to compare jobs in the broader public service. This method was used to compare positions for pay equity purposes when other methods such as job-to-job or proportional value comparison methods were not possible. The proxy method allowed organizations to compare certain job classes in one organization to job classes in other organizations. The proxy method will be repealed in its entirety on January 1, 1997.

These changes send a signal that shrinking resources will result in growing expectations from the general public about the Commission’s role in protecting the human rights of Ontario citizens, especially since the Government has gone on record as

saying that the *Code* is the foundation for equal opportunity in Ontario, and has committed itself to providing the resources needed to enforce the *Code* fully and effectively.

This year was not only about new developments. Some issues continued to play a prominent role in the public debate about the kind of society that Canadians are trying to build. Ontario continues to receive a significant share of immigrants to this country. Immigrants bring with them fresh vision and new resources. However, not everyone is comfortable with their presence and with the changes resulting from them being here. A controversy in Markham this year, which was directed at citizens of Chinese origin, was a good example of how the changing face of Ontario provokes expressions of intolerance. Intolerance based on race, place of origin and ethnic origin is inconsistent with the letter and the spirit of the *Code*. Such incidents highlight the importance of sustained and constructive community relations.

Another debate that resurfaced was the age-old one of racial equality and the extent to which race plays a role in the justice system. In 1995, this issue was examined in a report by the government-appointed Commission on Systemic Racism in the Justice System. The report provided evidence of systemic problems that revealed that black males in Ontario are not receiving the same treatment at the hands of the criminal justice system as white males. The conclusions confirmed long-standing concerns among racial minorities about unequal treatment in the system.

Women's rights also had a prominent place on the human rights agenda this year. The Beijing Conference brought women and their human rights to the front pages of newspapers around the world. In Canada, a Statistics Canada report showed that the gap between the earnings of men and women widened. While the *Employment Equity Act* was repealed in this province, legislation aimed at closing the earning gap was introduced or reinforced in other jurisdictions, notably in Quebec and federally.

HIGHLIGHTS OF 1995–1996

The Commission continued to make important gains, in part as a result of the non-legislative measures that the Commission began to implement two years ago. These are some of the results as at March 31, 1996:

- ◆ the average age of a complaint in the system remained steady at just over 15 months;
- ◆ OHRC's case processing productivity in 1995–1996 improved by about 8 per cent, despite a five-week strike in the Ontario Public Service that year;
- ◆ the Commission has taken important steps in managing public education more strategically, in enhancing its profile and increasing its presence through a number of educational initiatives.

Despite these gains, it is also true that our work is becoming more complex and difficult as the patterns of discrimination change. The agency has begun developing strategies to assist it to become more responsive and better able to deal with broader social justice issues. The following sections will address some of the strategies and accomplishments of 1995–1996.

Case Management

In 1995–1996, the Commission received a total of 1,845 formal complaints, 16% more than the previous year and the highest number of complaints ever received in a single year.

The size of the Commission's caseload is not the best indicator of efficiency. Indeed, the number of complaints in the system depends primarily on the number of complaints filed at any given time. The real measure of effectiveness is assessed more accurately in three ways. The first is related to case management results and strategies. The second is the extent to which the Commission tackles issues strategically and is able to deal with broader social demands for education and human rights literacy. And finally, its ability to do both within the confines of its financial allocation.

Over a third of complaints to the Commission were resolved within the first 90 days under the Early Settlement Initiative. Of the remaining complaints, about 45% were resolved within 24 months. These figures are important because they show that the Commission succeeded in resolving a significant number of its cases through settlement and conciliation initiatives.

The Commission resolved 1,374 formal complaints excluding early settlements, the highest number ever achieved in one year. The total number of complaints in the system at the end of March was 2,899. The average age of a complaint in the system remained steady this year at just over 15 months. Only 220 complaints that were more than three years old were in the system as at March 31, 1996.

The Commission's success in reaching its case management goals is largely due to the Quality and Quantity Assurance Program that was introduced in 1993–1994. This year, the Commission continued to implement and reinforce the program by instituting a pilot project in the regional offices of Toronto Central and London. The project deployed resources to the front end of the complaints process by assigning experienced human rights officers to deal with complainants from the time of their initial contact and to assist in drafting complaints. The officers' experience and knowledge of how the complaints resolution process works helped to deal expeditiously with complaints at the outset of the process. It also meant that callers to the Commission received important information about their options for resolving complaints immediately. As a result of the pilot project, the overall time it took to resolve complaints in the project was reduced.

The Commission's regional offices responded to 64,609 inquiries and made 24,001 referrals. In addition, the Public Policy and Public Education Branch responded to over 600 calls and written requests for advice, information and guidance about public education and policy matters. As part of its mandate, the Public Policy and Public Education Branch assisted businesses and the not-for-profit sector to develop guidelines and policies, as well as "best practices" standards in the workplace, on a range of human rights topics including alternate work, accommodation and religious leave.

Finally, the Commission met its budget targets this year, while managing a caseload of 2,900 complaints.

Reconsideration

The Reconsideration function of the Commission is located in the Legal Services Branch. Under the *Code*, complainants may seek reconsideration of a decision of the Commissioners not to investigate their case, or after investigation, not to refer their case to an independent board of inquiry. All applications for reconsideration must demonstrate that there is an issue as to the integrity of the Commission's administrative processes, that factual circumstances have changed since the Commission's first decision, or that these are new facts which were not previously available.

At April 1, 1995, the reconsideration caseload stood at 320, and an additional 345 new applications were received over the course of the year. Through the work of the one reconsideration officer, and with the support of the Commission's lawyers, articling students and a group of officers whose part-time assistance was provided by the Regional Services and Systemic Investigation Branch in fiscal 1994–1995, 567 reconsideration cases were closed during the fiscal year. There are currently less than 10 cases under active investigation.

As a result of changes in technology and a careful review of the legal criteria necessary to meet the requirements of section 37 of the *Code*, a more efficient processing of reconsideration cases has been possible. The current turn-around time for new reconsideration applications is **less than one month**.

Training and Development

In response to staff requests for training to deal with challenging customers, training sessions were developed in partnership with the Clarke Institute and were provided to Commission staff during the months of September, October and November, 1995. These training programs were designed to provide effective customer service by telephone and in personal meetings. Some of the topics addressed included:

- Intervention Strategies for Difficult Situations
- Supportive Measures for Staff Dealing with Challenging Customers
- Personal Safety Techniques
- Factors in a Safe Environment
- Assessment for Potential Aggression

As a follow-up, a policy on dealing with challenging customers was developed and all staff were provided with a copy of *Guidelines for Dealing with Challenging Customers* along with reference material.

Because of the success of the *Dealing with Challenging Customers* training programs in Metro Toronto, the Commission initiated a program to address training needs at the local level outside Metro Toronto. The Commission began to work with a learning network known as the Inter-Ministry Learning Opportunities Project (IMLOP). IMLOP provides cost-effective training at the local level and establishes a focal point for training programs to facilitate access by government staff outside of the Toronto area.

Various outside Ministries attended this program and the partnership arrangement with IMLOP provided Commission staff with the opportunity to be exposed to individuals in other fields of work in the broader OPS. As part of the ongoing focus on upgrading the training that is received by all staff, the Commission is also preparing a new Staff Orientation Program. The program components will include a Resource Manual, which contains detailed information about the structure of the Ontario Government, the Ontario Public Service and the values, structure, programs and management policies of the Commission, as well as a modular, computer-based training program which will be provided on the network or on disk.

CREATING A CULTURE OF TOLERANCE

While anti-discrimination legislation outlaws unequal treatment, human rights education targets attitudes and assumptions that often lie at the heart of discriminatory practices. Naturally, the size of the human rights complaints caseload and the length of time it takes to deal with complaints, tend to receive the most attention from the media, complainants and respondents. As a result, public education is sometimes underestimated or ignored, despite the significant role that it can play in assessing the overall strategy of a human rights program.

Awareness of individual rights and meaningful access to justice are critical tools in the struggle for dignity and equality. They define the objectives of human rights education: the first is to improve human rights literacy, that is, to improve awareness and understanding of the *Code* generally. The second requires access to specific training and education. The Commission frequently receives requests for advice from community groups, employers and individuals on a variety of topics ranging from reviews of internal policies to assessments of hiring questionnaires, to questions about business practices and policies.

This year, the Commission stepped up its efforts to increase its presence in a wide variety of sectors, including francophone educational services, business and legal associations, as well as service agencies for aboriginal persons. As a result, public education activities co-ordinated by the Public Policy and Public Education Branch in the second half of the year surpassed by four times, the number of activities that were conducted in the first half. In addition, both Regional Services and Legal Services continue to participate in a wide variety of public education sessions.

Public education goes beyond simply making presentations. It includes liaison with community organizations and social justice organizations, providing advice and utilizing technology effectively to reach larger audiences. For this reason, new initiatives have been targeted to make human rights materials more accessible. To improve human rights literacy and access to human rights documents, the Commission began to take steps to put the *Code* and other Ontario Human Rights Commission documents on the Internet.

Most importantly, the Commission began a concerted focus on its most important audience — youth.

Bringing the *Code* to the Education Sector

In Ontario, young people from all cultures and backgrounds meet on common ground: the classroom. As a centre of both formal and informal education, the classroom is a social and cultural hub for communities and an ideal training ground for promoting understanding and acceptance. Unfortunately, experience has proven that it can also become a breeding ground for conflict and intolerance. Taking active steps to create a culture of tolerance in our schools is a fundamental prerequisite for a healthy democracy.

In May, 1995 the Commission launched a package of pedagogical materials for secondary students entitled *Teaching Human Rights in Ontario*. The package, which is still being distributed, contains materials and handouts designed to introduce students to the protection of human rights in the *Code* and to help them understand the role of the Commission. The materials are also a catalyst for discussion about the rights and responsibilities that flow from the *Code*.

Teaching Human Rights in Ontario was launched during ceremonies held in a number of schools across the province, with the participation of Ministry of Education and Training officials, local school board representatives and students.

The package, in both English and French, was sent to every secondary school and every school board in Ontario. Over 1,300 copies have been sent to other individuals and groups at their request. The material is currently being used to teach human rights in community colleges and universities, in Adult Basic Education and in English as a Second Language classes. The Commission is pleased that Toronto region of the Society for Intercultural Education, Training and Research (SIETAR International) has also recommended its use.

No effort to create a culture of tolerance can be complete without capitalizing on the explosion of computer-assisted communications and information technology. The Commission took its first small step this year with the generous assistance of the Canadian Human Rights Commission. The Ontario Human Rights Commission has now posted information about the *Code* and the Commission, and this information is available to students in thousands of Canadian schools on "SchoolNet", as

well as to millions of Internet users worldwide (<http://www.chrc.ca>). The Public Policy and Public Education Branch has initiated a study to establish an independent website.

The Commission also continued its work as an active member of the Antiracist Multicultural Educators' Network of Ontario ("A.M.E.N.O."). A.M.E.N.O. works with educators to deal with ethnocultural equity in educational institutions and in society at large. A.M.E.N.O. also promotes anti-racism strategies, programs and new developments in multiculturalism. In addition to the Commission, its membership includes representatives from school boards, facilities of education, government and agencies.

The Commission is also a member of the Equity in Learning Materials Committee, which was created by the Ministry of Education and Training to provide input and direction for guidelines being developed to assist teachers to identify and remove bias from materials in the classroom. In August, 1995, the group submitted a draft manual to the Commission for review and comment.

Dealing with Hate

Over the last few years, it has become common to see teachers, publishers or writers brought to justice for promoting doctrines of hate, including anti-Semitism and white supremacy, or for their involvement in groups that promote such doctrines. It is no surprise that the United Nations declared 1995 the International Year of Tolerance. Unfortunately, the Year of Tolerance disappeared with barely a splash. Toronto publisher Ernst Zundel appeared in a Toronto courtroom this year on charges of making public statements inciting hatred. Moreover, information technology is being used increasingly on an international scale by individuals and groups to disseminate hate propaganda.

The increasing sophistication of hate groups calls for effective strategies. The Commission is represented on the Interministerial Committee on Anti-Hate Initiatives, which includes representation from the Ministry of the Attorney General. Chief Commissioner, Rosemary Brown also met with representatives from the League for Human Rights of B'nai Brith (Canada). Discussions centred on legal and non-legislative solutions to hate crimes, human rights education and the role the Commission can play in facilitating community partnerships and dialogue. The League promotes human rights for all Canadians and combats racial discrimination and anti-Semitism. The Public Policy and Public Education Branch is also represented on the League for Human Rights' Community

Advisory Committee, whose mandate is to develop guidelines for community action against hate propaganda and dissemination.

This year, the Commission invited members of the Metro Toronto Police Services' Hate Crimes Unit to share information and strategies in dealing with incidents of racially-motivated hate activities among students. The presentation provided Commission staff with some tools needed to recognize hate-motivated activities, both in human rights casework and in reporting hate crimes to the police.

The Commission also provided input into a public information brochure prepared by the Metro Police's Hate Crimes Unit. The brochure is a joint project with the Metro Police and the League for Human Rights of B'nai Brith.

Discrimination against Lesbians and Gays

One of the most visible targets of discrimination in our society is still the gay and lesbian community. The *Code* prohibits discrimination against gays and lesbians in services, accommodation, employment, contracts and vocational associations. Although everyone in Ontario is entitled to the same dignity, respect and opportunity, incidents of gay-bashing and discrimination on the ground of sexual orientation continue. The Commission's role in ensuring that members of the gay and lesbian community enjoy their full rights in Ontario, goes well beyond resolving individual complaints.

This year, the Commission continued its participation in a community-based group which met monthly at the 519 Church Street Community Centre to discuss issues facing the lesbian and gay community. The Commission provided information about the *Code*'s protection against discrimination on the ground of sexual orientation. The group formulated effective strategies to deal with its central mandate — eliminating gay-bashing. The Centre launched an awareness campaign and also published the results of a survey of 300 victims of gay-bashing.

As in previous years, the Commission had a display booth at the Lesbian and Gay Pride Day Parade. The annual event is an opportunity for the Commission to provide information and assistance to members of the gay and lesbian community about the *Code*. As part of its mandate to conduct analysis of legislation, the Commission began reviewing Ontario statutes to identify provisions whose application results in adverse impact on the gay and lesbian community. The legislative review coincided with the third

anniversary of the *Leshner*¹ case, which held that the definition of “marital status” in the *Code* should be read to include same sex partners. Although the *Code* has not been amended to comply with the finding in *Leshner*, the Commission continues to litigate these and other issues in an effort to obtain meaningful equality for gays and lesbians. The legislative review will be used as research and an analytical tool for Commission staff.

Creed and Religious Rights

Ontario’s diversity makes it important to find sensitive, pragmatic ways to accommodate individuals on the grounds of religious beliefs and practices. One of the more difficult issues surrounding accommodation is determining the practical meaning of the standard of “undue hardship” in the *Code*. Under the *Code*, an employer, service provider, landlord, etc. is required to modify work rules or other requirements on the grounds of creed, but only up to the point of undue hardship. For example, if an employer can demonstrate that accommodating the scheduling requests of a group of minority religious workers will create inordinate costs or health and safety dangers, there is no obligation to accommodate. However, the standard of what constitutes “undueness” is a difficult one.

This issue was considered by an Ontario board of inquiry in 1995 in the *Roosma*² case. Several complainants who worked shift schedules claimed that they had been discriminated against because of their membership in the Worldwide Church of God. The facts of the case were similar to those in the landmark Supreme Court decision in *Ontario Human Rights Commission and O’Malley v. Simpsons-Sears Ltd.*,³ (“*O’Malley*”) in that the workers were warned and eventually dismissed by their employer because of their refusal to work shifts that fell on a Friday night or Saturday.

Unlike the corporate respondent in *O’Malley*, the respondent in *Roosma* presented voluminous evidence which indicated that it had carefully considered all of the accommodation proposals offered by the complainants. These included paying the overtime

¹ *Leshner v. Ontario*, (No.2) (1992), 16 C.H.R.R. D/184 (Ontario Board of Inquiry)..

² *Roosma et al. v. Ford Motor Company of Canada Ltd. and the National Automobile and Agricultural Implement Workers of Canada, CAW Local 707*, (Ontario Board of Inquiry, Mercer) July 14, 1995, Decision 95-033.

³ (1985), 7 C.H.R.R. D/3102.

for workers to work the Friday night shifts for the complainants; working until sunset on Fridays; being transferred to non-bargaining unit jobs; working six months straight days during the winter and six months of straight nights during the summer so that student replacements could be used Friday nights, etc. After examining the evidence, the board concluded, on the facts of the case, that none of the options could be implemented without causing undue hardship and it dismissed the complaint.⁴

Roosma showed that undue hardship is a relative concept. Accommodation measures may cause undue hardship to one employer but not to another. It is possible that a method of accommodation which does not cause undue hardship to an employer at present may cause undue hardship in the future. This may happen as circumstances change; for example, the number of employees requesting accommodation may increase significantly. Therefore, it is important to take into consideration all the relevant factors when attempting to determine when the standard of undue hardship is met.

There is a lack of resolution about rights and obligations in the area of creed. In order to address the matter, the Commission has begun work on guidelines for interpreting the *Code*'s provisions dealing with creed in order to provide practical policy assistance to employers, educational administrators and others. In 1994, the Quebec Human Rights Commission was called upon to make a public policy statement on religious pluralism in Quebec, with specific reference to the rights of female Muslim students to wear the Muslim veil (hijab) in public schools. The public sought the Quebec Commission's position after a girl was expelled from public school for wearing the veil and after reports that a private Muslim school was compelling non-Muslim teachers to wear the veil.

This year, the Ontario Human Rights Commission was asked to provide a policy opinion on a similar matter. The Commission took the position that Muslim girls should be permitted to wear head scarves in school, whether or not the school has a school uniform policy.

⁴ The Commission has appealed this decision to the Divisional Court.

Human Rights in Health Care

The Commission received some 175 complaints this year against institutions in the health care sector. The majority of complaints were based on race and race-related grounds. Last year, the Ministry of Health expressed concerns about allegations of discrimination in various health care institutions. The Ministry's Joint Policy and Planning Committee subsequently created a task force, the Ontario Hospital Association Anti-Racism Project Task Force, to assist hospitals throughout the province to develop anti-racism strategies and to implement anti-racist organizational change.

The Commission was invited to contribute its expertise in developing the Task Force's Anti-Racism Resource Package. In November of this year, the Task Force submitted a draft to the Joint Committee. The proposed package contains a video, anti-racism policy guidelines, a self-assessment tool for use by organizations, and other resource materials.

A catalyst for the creation of the Ministry's Task Force was a group of ten complaints filed in 1991 against Northwestern General Hospital by racial minority nurses, who alleged that the hospital discriminated against them on the ground of their race. As part of the multi-faceted settlement to the complaints in 1994, the hospital agreed to report to the Commission every six months for the next three years, concerning its progress in implementing the terms of the settlement. The settlement involved both individual remedies and an agreement to introduce systemic anti-racism changes at the hospital.

Over the past year, the Vice President of Ethno-Racial Equality has consulted extensively with Commission staff, who in turn supplied input and feedback on various aspects of the program. The following are highlights of progress made during this year:

- 700 staff and volunteers have been given anti-racism training;
- an anti-racism action plan is being developed;
- the hospital developed anti-discrimination and anti-harassment policies, and
- an employment systems review has been conducted.

Another concern in the health care sector has been the potential effect of the *Regulated Health Professions Act, 1991* which was proclaimed on December 31, 1993. Under that Act, only regulated health professionals or those whom they delegate may perform

certain potentially hazardous activities during the course of their work. Nurses and nursing assistants must now be registered with the College of Nurses of Ontario. Before this requirement was introduced, nurses and nursing assistants did not have to be registered.

The Ontario Nursing Association (ONA) represents the single largest block of nurses in the province. The ONA argues that the new requirement threatens the continued employment of these working graduates and that it has an adverse impact on graduate nurses and nursing assistants, many of whom are from countries other than Canada, the U.S. or Britain, where the language and/or training requirements differ. Many have been employed continuously as practising nurses in Ontario since at least 1981.

In 1993, the College of Nurses decided that working graduates who seek to qualify must “register” within three years, during which time they would be classified on a provisional basis. Registration requires the successful writing of the Canadian Nursing Association Testing Services examination. If, after three years, a graduate fails to register, the provisional status is revoked and the graduate is not allowed to continue nursing.

A Focus on Disability Issues

Over the last few years, the largest single category (25%-38%) of complaints to the Commission has been on the ground of disability. This remains an important strategic area for the Commission.

This year, the Commission assisted a hearing-impaired complainant to negotiate a settlement with the Ministry of the Attorney General to ensure that visual language interpreters are provided in Small Claims Courts and their offices throughout Ontario.

Originally, the complainant had approached the Commission’s Hamilton Regional Office for assistance after staff in a Small Claims Court office were unable to provide a visual language interpreter to assist her in the filing of a claim. Instead of an interpreter, the Court staff had provided her with informational brochures about the Small Claims Court system and suggested she read them and then communicate any questions she might have in writing.

Because English — written or spoken — is so different from American Sign Language, the complainant did not feel comfortable with this option.

According to the terms of the settlement, the Attorney General's office will set up a \$10,000 fund to pay for visual language interpreters for deaf customers to the province's Small Claims Courts. "Visual language interpretation" will include American Sign Language, deaf-blind interpreter services, deaf interpreter services, text-based interpretation services, and the Langue des signes du Québec. Paid interpretation services will be available to litigants, witnesses and members of the public making general inquiries, and will be in the Courts' administrative offices, pre-trial conferences, and all Court proceedings.

Under this new arrangement, a simple set of procedures has been established to arrange for the services of suitable interpreters and to pay them properly. The system is designed to respect the service users' dignity and privacy and is in accordance with the Commission's guidelines on accommodation for people with disabilities.

It essentially extends a service that is already provided by law throughout the rest of the court system.

This year, the Commission also reviewed proposals affecting the *Ontario Building Code* in order to ensure that the proposals comply with the *Human Rights Code*. The proposals were contained in a document entitled "Back to Basics: A Consultation Paper on the Focus of the *Ontario Building Code*", prepared by the Housing Development and Buildings Branch of the Ministry of Municipal Affairs and Housing. The Commission urged the Ministry to ensure that the final version of the document continues to reflect both the spirit and letter of the *Code*.

The Commission expressed concern that access for persons with disabilities appeared to receive less weight as a basic principle in the Back to Basics document as compared to other principles. The Commission reaffirmed its view that access should be expressed as a guiding principle.

It has been the Commission's experience that businesses that are respondents in human rights complaints argue that making buildings accessible will not benefit a broad sector of society. They point out that accessibility imposes a financial burden at a time when the economy is fragile. The law, however, is clear. The *Code* provides that persons with disabilities must be accommodated, short of undue hardship. The Commission recommended to the Ministry of Municipal Affairs and Housing that the standard of undue hardship should be based on objectively verifiable factors

such as quantifiable and foreseeable costs. These costs may take into account the availability of outside sources of funding as well as health and safety risks, according to the *Code* and to the Commission's "Guidelines for Assessing Accommodation Requirements for Persons With Disabilities".

The Commission was pleased to learn that the Minister of Municipal Affairs and Housing, Mr. Al Leach, assured stakeholder groups that the government has no plans to reduce the standards presently set out in the *Ontario Building Code*.

A positive development for accessibility this year relates to the continuing efforts by a major movie theatre chain to continually improve its service to patrons with disabilities. Cineplex Odeon Corporation advised the Commission of ongoing efforts to improve customers' ability to park and enter Cineplex buildings. Access to washrooms, telephones and concession stands has been improved. In accordance with the principle of accommodation with dignity, patrons with disabilities will be able to seat themselves according to preferred locations in the theatre.

In older theatres, Cineplex Odeon has reported that level seating in the rear is now available for wheelchair users. In newly built theatres, adjustable seats have been introduced so that patrons who use wheelchairs can slip into them easily. This seating has been placed on the centre aisle in front, centre and rear locations. An increased number of assistive hearing devices will be available and better advertised at the box office. Staff are being trained to deal with accommodation issues appropriately, and a policy allowing guide dogs in the theatres has been instituted.

The Commission applauds the efforts of companies such as Cineplex Odeon who are making tangible efforts to allow persons with disabilities to access and enjoy these entertainment services. Measures such as these make cinema facilities significantly more comfortable and enjoyable for movie-goers who require accommodation. The measures reflect the spirit of the *Code* by respecting the dignity of people with disabilities.

Women's Issues

“ Violence against women is an affront to civilized society. We all share the responsibility to end it. The determined effort of men, women, community groups and governments is necessary to do so. ”

*Chief Commissioner Rosemary Brown,
Letter to the Editor (The Globe and Mail)
on the anniversary of the Montreal Massacre, December 6, 1995.*

As thousands of women gathered in Beijing for the United Nations' Fourth World Conference on Women in 1995, women's perspectives on violence, discrimination and religious oppression were integrated into the final platform for action. Both the resolutions and the reservations contained in the platform highlighted the central issues for women: control over basic decisions about women's physical integrity, sexuality, economic activity and education.

The Beijing platform for action has direct implications for statutory agencies such as human rights commissions. Human rights commissions have the legal responsibility to address discrimination that occurs within their jurisdiction. They have the obligation to abide by international law, practice and standards to which Canada has adhered.

One such issue that surfaced during the Beijing conference and that the Commission is taking steps to address, is Female Genital Mutilation (FGM). FGM is a traditional practice in regions of east and west Africa, parts of the Middle East and elsewhere. FGM involves the cutting and/or excision of the sexual organs of girl children. Because of the increase in immigration to Ontario from regions where the practice persists, the Commission has been made aware that girl children from affected communities are at risk in Ontario. There are, as well, important questions surrounding the care and treatment of women who have undergone the procedure.

At the 1995 conference of Canadian Association of Statutory Human Rights Agencies (“CASHRA”), Chief Commissioner, Rosemary Brown tabled the following resolution:

Whereas Canada is participating in an international initiative to eradicate the practice of female genital mutilation...be it resolved that CASHRA recommend to the Minister of Employment and Immigration that all prospective immigrants be provided with information setting out Canada's commitment to upholding international human rights instruments; emphasizing that the protection and respect of human rights is a cornerstone of Canadian society and extends to the protection of women and children against acts which would cause grave interference with their personal inviolability, including female genital mutilation.

The Commission began extensive research on FGM in order to release a policy position paper on the human rights implications of the practice. The policy is scheduled for release in May, 1996.

LEGAL DEVELOPMENTS

Disability

In the *Thomson* complaint, a board of inquiry examined the issue of whether a provision in a collective agreement which pro-rates the vacation pay of injured workers who are absent from work, discriminates against persons with disabilities. The board of inquiry held in November, 1995 that pro-rating is a restriction or penalty. The reduction in vacation pay has an adverse impact on workers who otherwise would have been entitled to full vacation pay but for the compensable injury. Therefore, a clause that reduces vacation pay on the basis of absence from work may be discriminatory if the employee in question has a handicap within the meaning of the *Code*.

It should be noted that as of March 31, 1996, the board of inquiry had not yet decided on the appropriate remedy in the *Thomson* matter.

Sexual Orientation

The landmark decision in Ontario on the issue of same sex benefits is the 1992 case of *Leshner v. Ontario*. An Ontario board of inquiry held that the government of Ontario, in its capacity as an employer, discriminated on the basis of sexual orientation when it failed to extend spousal survivor pension benefits to the same sex partners of its homosexual employees. Such benefits were provided by the government to the spouses of its heterosexual employees. In reaching this decision, the board found that the definitions of "marital status" and "spouse" in the *Code*—which are both restricted to relationships between persons of the opposite sex—contravened section 15 of the *Canadian Charter of Rights and Freedoms*. The government declined to appeal this decision.

Following *Leshner*, the issue of entitlement to same sex spousal benefits was not resolved. The Commission continues to receive complaints from other gay or lesbian employees who have sought, and been denied, benefits coverage for their partners. Two such complaints, referred to a board of inquiry by the Commission, and arguments were recently heard by the board of inquiry in *Dwyer v. Municipality of Metropolitan Toronto* and *Sims v. Attorney General of Ontario*. No decision has yet been rendered on either complaint.

Race Discrimination

The Commission continues to receive and investigate complaints based on allegations of race discrimination. Two such cases that are currently being litigated are *Wong v. Toronto Hydro* and *Naraine v. Ford Motor Co.*

In *Naraine*, the complainant, an East Indian man originally from Guyana, worked for the Ford Motor Company in Windsor for over nine years. During that time, the working environment was allegedly poisoned by racist graffiti and by racist verbal comments that were directed at him and, in some instances, directed at other racial minority employees. The complainant alleged that he was given inferior work assignments and training and that he was subject to a higher level of scrutiny and discipline than other employees.

Eventually, the complainant was terminated following an allegation that he assaulted a co-worker. The hearing in this case was conducted over 33 days in 1995 and 1996, and the evidence called, spanned nine years of employment. Final argument is expected to be completed in late June, 1996.

In *Wong v. Toronto Hydro et al.*, the complainant, originally from Hong Kong, worked as an electrical engineer for the respondent for nearly 13 years. In 1989, he filed a complaint alleging discrimination because of race, ancestry and ethnic origin. The complainant alleges that, for these reasons, his work had been undervalued and that he had been unsuccessful in some 29 job competitions while working at the respondent company. Evidence is still being called.

In *Qureshi v. Toronto Board of Education et al.*, the complainant alleged that he was subject to discrimination in employment on the basis of race, sex, creed, place of origin and ethnic origin. He had been a supply teacher who alleged that he had been passed over for a permanent position in favour of a woman from Great Britain. The board of inquiry upheld the complaint. The Divisional Court allowed the respondents' appeal with respect to the findings of constructive discrimination. The Commission has been granted leave to appeal to the Court of Appeal. The classification and interaction of the concepts of direct, indirect, constructive, intentional and unintentional discrimination will be raised on this appeal.

Espinosa v. Coldmatic Refrigeration of Canada et al., involved a complainant who alleged that he had been subjected to discrimination, harassment and a poisoned workplace because of, *inter alia*, his ancestry, ethnic origin and place of origin. The board upheld the complaint, and found that the complainant's workplace discriminated against employees who had emigrated from Latin America and South America.

The respondents have appealed the board's findings of discrimination and the board's award of damages to the complainant for mental anguish.

These cases, and others like them, involve evidence of both subtle and direct patterns and practices of discrimination engaged in by employers and co-workers. The evidence of experts on racial matters may be relied upon. As race discrimination is rarely overt, and is more typically practised in a covert and/or unconscious manner, these cases are difficult to prove.

Creed

In *Jazairi v. York University et al.*, the complainant alleges that he was subject to discrimination based on creed. The Commission investigated the complaint and was of the view that the treatment of the complainant by the respondents was based on the complainant's political beliefs, not his creed. Consequently, the Commission decided not to refer this complaint to the board. The complainant sought judicial review of the Commission's decision, arguing that the ground of "creed" in the *Code* includes political belief.

Sex

In *Jodoin v. Ciro's Jewellers (Mayfair) Inc. and Morris Nash*, the complainant was terminated from her position as store manager of Ciro's King store, alleging that the reason for her dismissal was her pregnancy. The respondents contended that the complainant's dismissal was a function of her incompetence as an employee.

On hearing the evidence, the board found that the personal respondent dismissed the complainant, at least in part, because she was pregnant and could not work 12 hour shifts. It was further satisfied that no efforts had been made to accommodate the complainant although accommodation could have easily been achieved.

Thus, the board found that the complainant was denied equal treatment without discrimination because of sex by the personal respondent and, following from this liability, by the corporate respondent. The respondents were held jointly and severely liable for the violation and ordered to make payment of \$16,334.43.

In *Tomen et al. v. Ontario Teachers Federation et al.*, the complainants alleged that a by-law compelling them to belong to a union restricted to female teachers, constituted discrimination based on sex because the women preferred to join the union for male teachers. The board upheld the complaint. On appeal to Divisional

Court, the Court held that the segregation into men's and women's unions was discriminatory, and that the all-female union was not a special program pursuant to section 14(1) of the *Code*. The Court of Appeal has granted leave to appeal.

In *Reed v. Cattolica Investments Ltd. and Ragusa*, an Ontario board of inquiry has held for the first time that a complainant had been sexually harassed by a landlord, contrary to section 7(1) of the *Code*. The complainant was awarded, *inter alia*, \$2,000 in general damages as compensation for this infringement.

Procedural Issues

Section 41(4) of the *Code* provides that where a complaint is dismissed and the board finds that the complaint was trivial, frivolous, vexatious or made in bad faith, or that undue hardship was caused to the respondent, the board *may* order the Commission to pay the respondent's costs. While this power had been exercised sparingly in the past, it is being used more frequently of late.

Most recently, the Commission was ordered to pay the respondents' costs in *Grace and Belford v. Mercedes Homes*. The complainants in that case alleged that they had been subject to discrimination based on sexual orientation and handicap by their landlord. The complaint was dismissed, and the board released a separate decision on costs. The board found that the testimony of the complainants was not credible, and that the complaints were trivial, frivolous, vexatious and made in bad faith. The board held that, even if the Commission were ignorant of the complainants' bad faith, or innocent of any bad faith itself, the Commission could not be immunized from an order to pay costs.

Finally, in *Douglas Wellington v. Corporation of the City of Brampton*, a complaint of discrimination on the basis of handicap was dismissed by the board on March 31, 1995. The respondents brought a motion pursuant to section 41(4)(a) of the *Code* to have its costs paid by the Commission. The respondent argued that the complaint was vexatious because it was so lacking in merit that it had been irresponsible of the Commission to proceed. In particular, the respondents submitted that the assessment of the merits of the case in the case summary completed by the human rights officer in charge of the investigation was not reasoned or objective.

The board reviewed the civil cases regarding the meaning of the term "vexatious". On the basis of the legal principles set out

in the civil cases, the board accepted the respondent's submission that section 41(4) of the *Code* requires an examination of the entire history of the complaint in determining whether or not the complaint was vexatious.

The board stated that the human rights cases do not provide a satisfactory definition of the term "vexatious". However, the board concluded that "vexatious" includes a lack of *bona fides* or good faith. If there is no substantial legal basis for a complaint, then it could be concluded that the complaint commenced or the proceedings continued with the purpose of harassing or embarrassing the responding party. The board found that section 41(4)(a) of the *Code* should not be interpreted as distinguishing between a vexatious complaint and a complaint made in bad faith. While a claim made in bad faith is not necessarily vexatious, it does not follow that a vexatious complaint cannot be made in bad faith.

The board also considered the question of whose conduct must be examined in order to determine whether the complaint was vexatious. The board concluded that the Commission should not have to pay costs where it is only the complainant who has behaved in a vexatious manner. It was also held that the Commission should not have to bear costs if its own handling of the complaint remained untainted by any of the factors listed in section 41(4)(a) of the *Code*.

The board found that the Commission had behaved responsibly in requiring the issues of the complaint to be determined by a board of inquiry, despite the weakness of the case. The board dismissed the respondent's motion.

Damages

There have been several developments in the area of damage awards in human rights litigation in Ontario. Firstly, there have been three cases this fiscal year which have awarded \$10,000 in general damages for loss of the intrinsic value of one's human rights, dignity, and/or pain and suffering and mental anguish. *Entrop v. Imperial Oil Ltd.* is a case concerning alleged discrimination based on "handicap" and "perceived handicap" stemming from Imperial Oil's "Alcohol and Drug Policy" and the manner in which it was administered. In its "Interim Decision # 7" the board of inquiry found that the complainant's right to freedom from "reprisal" pursuant to section 8 of the *Code* had been infringed, and awarded him \$10,000 to compensate for the intrinsic value of

the infringement of his rights under the *Code*. The board of inquiry ordered the respondents to pay Mr. Entrop an additional \$10,000 to compensate him for mental anguish based on the wilful and reckless manner of the infringement.

In the case of *Lord v. Haldimand-Norfolk Police Services Board et al.*, a board of inquiry also awarded \$10,000 for general damages or mental anguish. This damage award was based on the board's finding that the respondent discriminated against Ms. Lord, who was a police constable, on the basis of sex, by refusing to assign her light duties in the latter weeks of her pregnancy. The board of inquiry found that Ms. Lord had been the subject of both adverse impact and direct discrimination. It found that the policy of the Police Services Board not to allow modified duties was unreasonable and therefore not a *bona fide* occupational qualification. The board held furthermore that there was no evidence that the respondent attempted to accommodate the complainant short of undue hardship, and that it had in fact treated her differently from male staff who had been offered modified duties.

In *Ontario (Human Rights Commission) and Edwin Roberts v. Ontario (Ministry of Health)*, the Court of Appeal allowed an appeal from a Divisional Court judgment upholding the board of inquiry's decision dismissing a complaint. It found that a program which qualifies as a special program pursuant to section 14(1) of the *Code* may still be discriminatory if it arbitrarily denies assistance to someone because of their age. Having had the matter referred back to it by the Court of Appeal, the board of inquiry assessed the general damages to the complainant to be \$7,000 for the intrinsic value lost by the infringement, and \$3,000 for mental anguish.

In an appeal decision, the Divisional Court found in *Hom and Petersen v. Impact Interiors Inc. et al.*, that the board of inquiry erred in making an award for pre-judgment interest on its damages award, since the *Code* did not specifically give boards of inquiry the jurisdiction to make such orders. Leave to appeal this decision to the Court of Appeal was granted to the Commission in March, 1996.

There have also been some interesting developments in the law pertaining to section 8 of the *Code*, which codifies a person's right to enforce and claim her or his rights under the *Code* without reprisal or threat of reprisal. The board of inquiry held in

Reprisal

Chowdhury v. Windsor Public Library Board et al., that while the respondents may not “consciously” have intended to intimidate or take reprisals against Mr. Chowdhury, the focus must be on the impact of their actions upon the complainant. Relying upon the reasons in “Interim Decision #7” of *Entrop v. Imperial Oil Ltd.*, the board held that where a complainant **reasonably** perceives that she or he is being retaliated against because of a human rights complaint, the protection in the *Code* against reprisal is violated.

ESTABLISHING LINKS AT HOME AND ABROAD

The Commission conducted a number of public education sessions this year with community groups, schools and educators, including conferences, seminars and special events. In addition to the public education sessions conducted by Commission staff, the Chief Commissioner and Commissioners spoke to a range of community and professional associations. These included the Black Law Students' Association of Canada, Loretto College School, the Women Teachers' Association (North York), Quetzal Family Homes and the Halton Cultural Awareness Council.

The Commission also had the privilege this year of sharing its experiences with others from around the world, and obtaining valuable information about developments in human rights issues. Two groups from South Africa consulted with the Commission this year. One delegation was from a major brewing company that was developing an employment equity program. As well, Commission staff met with government officials who were working to establish a human rights commission in South Africa.

The Commission was represented at a national conference on "Human Rights and Changing Global Values", held in Alberta in November, 1995. The conference provided a forum for delegates to discuss means of advancing and implementing universal human rights on a local basis. The conference emphasised the progress made at the 1993 Vienna Conference.

The Commission was also represented at a one-day joint meeting in Ottawa for human rights officials from Canada and Indonesia. The meeting was part of a broader initiative sponsored by the Canadian International Development Agency (CIDA) to provide a Canadian vehicle through which human rights agencies from around the world can obtain guidance and assistance from Canadian experts.

The Commission was also invited to participate as a member of the Canadian delegation to a seminar on human rights education held in New Delhi, India. The conference was organized jointly by the Canadian Human Rights Commission and India's National Human Rights Commission. The Ontario Human

Rights Commission presented three papers at the conference, sharing its experience in human rights education, policy and community functions, and its approach to investigative human rights work.

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BOARDS OF INQUIRY – FINAL DECISIONS

Age

Lewis v. Far Investments Inc.

Neiznanski v. The Governing Council of the University of Toronto et al.

Ontario Human Rights Commission (Roberts) v. Ministry of Health

Roosma et al. v. Ford Motor Company of Canada Ltd. et al.

Ancestry

Parsonage, Corporate Cuisine v. Canadian Tire Corporation

Breach of Settlement

Jones v. Highmark Properties

Colour

Parsonage, Corporate Cuisine v. Canadian Tire Corporation

Ethnic Origin

Neiznanski v. The Governing Council of the University of Toronto et al.

Parsonage, Corporate Cuisine v. Canadian Tire Corporation

Family Status

Jodoin v. Ciro's Jewellers (Mayfair) Inc. et al.

Handicap

Johnston et al. v. Levin, Midtown Hotel Limited, carrying on business as Gord's Shooters et al.

Ontario Human Rights Commission (Roberts) v. Ministry of Health

Saunders v. Morsal Developments Ltd. et al.

Thomson v. 501781 Ontario Limited (operating as Fleetwood Ambulance Service), Ontario Public Service Employees Union

Wellington v. Corporation of the City of Brampton et al.

Harassment

Joe v. University of Toronto

Place of Origin

Neiznanski v. The Governing Council of the University of Toronto et al.

Race

Joe v. University of Toronto

Parsonage, Corporate Cuisine v. Canadian Tire Corporation

Patel v. Minto Development Inc. et al.

Reprisal

Reed v. Cattolica Investments Ltd. et al.

Saunders v. Morsal Developments Ltd. et al.

Sex

Audia v. Workers' Compensation Board

Gogek v. Gino Empry Public Relations

Jodoin v. Ciro's Jewellers (Mayfair) Inc. et al.

Martinie v. Italian Society of Port Arthur and Salvatore (Sam) Federico

Lambert v. Peel Board of Education

Lord v. Halldimand-Norfolk Police Services Board

Reed v. Cattolica Investments Ltd. et al.

Saunders v. Morsal Developments Ltd. et al.

Strauss v. Canadian Property Investment Corp. et al.

Sexual Harassment

Grainger v. Pic Para Legal Services, a division of 795430 Ontario Inc. et al.

Saunders v. Morsal Developments Ltd. et al.

Strauss v. Canadian Property Investment Corp. et al.

Sexual Orientation

Grace et al. v. Mercedes Homes

Sexual Solicitation

Reed v. Cattolica Investments Ltd. et al.

Saunders v. Morsal Developments Ltd. et al.

Strauss v. Canadian Property Investment Corp. et al.

BOARDS OF INQUIRY – SETTLEMENTS

Age

Holden v. Ron's Lock and Safe Co. et al. and Workers' Compensation Board

Leask v. Oshawa Public Utilities Commission et al.

Ancestry

Barclay v. Royal Canadian Legion, Branch 12 et al.

Chandan v. Emix Ltd. (The Furniture Mall Division) et al.

Colour

Barclay v. Royal Canadian Legion, Branch 12 et al.

Hill v. The Board of Education for the City of Scarborough et al.

Jack v. Metro Toronto Reference Library

Creed

Mogg v. Northwestern General Hospital et al.

Ethnic Origin

Chandan v. Emix Ltd. (The Furniture Mall Division) et al.

Family Status

Hulan et al. v. Youth Housing (Markham)

Handicap

Becker v. Daily Bread Food Bank Foundation of Toronto (operating as The Daily Bread Food Bank) et al.

Daigle v. LCBO and OLBEU

Dombroski v. Stanley Luckasavich Logging Ltd.

Ennis v. Spence and Guylaine Lanctot Clinique

Grenier v. Sault Ste. Marie Association for the Mentally Retarded

Hale v. Lafarge Canada Inc. and Energy and Chemical Workers Union, Local 219 et al.

Meunier v. Real Laroche Racing et al.

Mock v. North York Board of Education et al.

Ostroski v. The Corporation of the City of Sault Ste. Marie et al.

Ross et al. v. The Crown in Right of Ontario (Ministry of Housing) et al.

Watson v. Pool Cartage Ltd.

Harassment

Barker v. Alternative Counselling Services Inc. et al.
Cattarello v. Kapuskasing Board of Education et al.
Green v. John's Restaurant et al.
Mock v. North York Board of Education et al.

Marital Status

Holden v. Ron's Lock and Safe Co. et al. and Workers' Compensation Board
Pollard v. Condie Napanee Limited
Ross et al. v. The Crown in Right of Ontario (Ministry of Housing) et al.

Place of Origin

Chandan v. Emix Ltd. (The Furniture Mall Division) et al.

Race

Barclay v. Royal Canadian Legion, Branch 12 et al.
Barker v. Alternative Counselling Services Inc. et al.
Brien (formerly Jerez) et al. v. Cando Management Ltd.
Chandan v. Emix Ltd. (The Furniture Mall Division) et al.
Green v. John's Restaurant et al.
Hill v. The Board of Education for the City of Scarborough et al.
Jack v. Metro Toronto Reference Library

Reprisal

Borutski v. Hammond
Cattarello v. Kapuskasing Board of Education et al.
Dore et al. v. Clevelands House Limited et al.
Green v. John's Restaurant et al.
McDougald v. Rideau Coiffures Limited et al.

Sex

Barker v. Alternative Counselling Services Inc. et al.
Borutski v. Hammond
Cattarello v. Kapuskasing Board of Education et al.
Crow v. Woodbridge Foam Corporation et al.
Farah v. The Ontario Association for Community Living et al.
Green v. John's Restaurant et al.

Hulan et al. v. Youth Housing (Markham)
McDougald v. Rideau Coiffures Limited et al.
Mendelson v. Canadian Friends of Bar-Ilan University et al.
Milligan et al. v. Mancuso
Pollard v. Condie Napanee Limited
Redden v. Bryant Press Ltd. et al.; Redden v. Graphic Communications International Union Local 500 et al., Button v. Bryant Press Ltd. et al.; Hunter v. Bryant Press Ltd. et al.; Tizzard v. Bryant Press Ltd. et al.

Sexual Harassment

Borutski v. Hammond
D'Andreis v. Manco Construction Ltd. et al.
Dore et al. v. Clevelands House Limited et al.
McDougald v. Rideau Coiffures Limited et al.
Mendelson v. Canadian Friends of Bar-Ilan University et al.
Milligan et al. v. Mancuso

Sexual Orientation

Barker v. Alternative Counselling Services Inc. et al.
Huggonson v. The Toronto Hospital
Ross et al. v. The Crown in Right of Ontario (Ministry of Housing) et al.
Thibeault v. Bodega Restaurant et al.

Sexual Solicitation

Borutski v. Hammond
Cattarello v. Kapuskasing Board of Education et al.
D'Andreis v. Manco Construction Ltd. et al.
Green v. John's Restaurant et al.
McDougald v. Rideau Coiffures Limited et al.
Mendelson v. Canadian Friends of Bar-Ilan University et al.
Milligan et al. v. Mancuso

BOARDS OF INQUIRY – DIVISIONAL COURT

Colour

Malhotra v. Ontario Human Rights Commission

Handicap

Pokonzie v. Ontario Human Rights Commission

Harassment

The Board of Governors of Brock University v. Ontario Human Rights Commission and the Minister of Citizenship (Ontario); Warner Hom and Peterson v. Impact Interiors Inc. and Walia

Race

Malhotra v. Ontario Human Rights Commission

Place of Origin

Malhotra v. Ontario Human Rights Commission

Reprisal

The Board of Governors of Brock University v. Ontario Human Rights Commission and the Minister of Citizenship (Ontario); Warner Hom and Peterson v. Impact Interiors Inc. and Walia

Sex

The Board of Governors of Brock University v. Ontario Human Rights Commission and the Minister of Citizenship (Ontario); Warner Hom and Peterson v. Impact Interiors Inc. and Walia

Ontario Human Rights Commission and Tomen et al. v. Ontario Teachers' Federation, Ontario Public School Teachers' Federation et al.

Sexual Solicitation

The Board of Governors of Brock University v. Ontario Human Rights Commission and the Minister of Citizenship (Ontario); Warner Hom and Peterson v. Impact Interiors Inc. and Walia

BOARDS OF INQUIRY – COURT OF APPEAL

Sexual Harassment

Hall v. A-1 Collision and Auto Service and Latif

Sexual Solicitation

Hall v. A-1 Collision and Auto Service and Latif

BOARDS OF INQUIRY – SUPREME COURT OF CANADA

Age

The Corporation of the City of Stratford Police Department and Board of Police Commissioners v. Large and The Ontario Human Rights Commission

FINANCIAL STATEMENT

The Commission's approved year-end allocation for the 1995–1996 fiscal year was \$11,306,400. The Ontario Human Rights Commission operates 16 offices throughout the province, including a head office in Toronto. In addition to investigating and conciliating formal human rights complaints, the Commission's staff addressed 64,609 inquiries and made 24,001 referrals.

COMMISSIONERS

Section 27 of the *Human Rights Code* provides that the Commission be composed of no fewer than seven persons appointed by the Lieutenant Governor in Council.

The Chair of the Commission (Chief Commissioner) is a full-time position. Other members of the Commission serve on a part-time basis.

The Chief Commissioner chairs meetings of the Commission and the Vice-Chair presides over meetings of the Commission in the absence of the Chief Commissioner.

The Commissioners are selected to represent the diversity of Ontario, ensuring both complainant and respondent perspectives and preserving a balanced representation of groups protected under the *Human Rights Code*. In their decision-making, Commissioners are required to be impartial and to implement Ontario's public policy on human rights.

The following are biographical profiles of the Chief Commissioner and Commissioners for this year:

Rosemary Brown (Chief Commissioner)

Ms. Brown was appointed Chief Commissioner of the Ontario Human Rights Commission on June 4, 1993. She was the first Black woman to be elected to political office in Canada, serving 14 years as a member of the British Columbia Legislature from 1972 until her retirement in 1986. A champion of human rights, she has earned respect for her work in Canada and around the world. Ms. Brown is a patron of the National Council of Black Educators of Canada and the Vice-chairperson of the South African Educational Trust Fund. She received the National Black Coalition Award in 1972 and the Canadian Black Achievement award in 1994. Ms. Brown, who immigrated from Jamaica to Canada in 1950, is a member of the Privy Council and a member of Canada's Security Intelligence Review Committee. Her autobiography, *Being Brown*, was published by Random House in 1989.

Louis Lenkinski (Vice-Chair)

The late Mr. Lenkinski was appointed Commissioner in July, 1987 and Vice-Chair of the Commission in 1994. A member of the Upholsterers' International Union for many years, Mr. Lenkinski served as its business representative from 1958 to 1969. Subsequently, he held the positions of Project

Director and Executive Secretary to the Labour Council of Metropolitan Toronto. In 1975, he became Executive Assistant to the Ontario Federation of Labour and in 1984, he was appointed to be a part-time member of the Ontario Labour Relations Board. Mr. Lenkinski passed away on June 20, 1995.

Marie-Elisabeth Brunet

Mrs. Brunet was appointed to the Commission in March, 1995. She is a freelance journalist who has done extensive work for the National Arts Centre's French Theratre Department over the past several years. She also hosted and co-wrote the documentary series Visiontario on TVO for two years. A resident of Vanier, Ms. Brunet previously worked as a radio and television reporter for Radio-Canada, CJBC and CBLFT Toronto and as provincial co-ordinator for women's groups for Association canadienne française de l'Ontario, Ottawa. Ms. Brunet has been active in her community as a founding member of Comité Action de Sudbury.

Anne M. Cox

Mrs. Cox was appointed to the Commission in January, 1995. She is the Executive Director of the Thunder Bay Indian Friendship Centre. She has worked for Correctional Services Canada, Kinna-Aweya Legal Clinic and Ontario Native Women's Association. She is currently a member of the Ad Hoc Native Advisory Committee, Employment Equity Consultation Committee, Thunder Bay Police, the Aboriginal Management Council, and the Board of Governors for Confederation College.

Ida DeJesus

Mrs. DeJesus was appointed to the Commission in August, 1993. She is a lawyer currently working with the Labourer's International Union, Local 183 (the Prepaid Legal Benefits Fund). In addition to her professional background, Ms. DeJesus has been a member of the Board of Abrigo (Centre for Victims of Family Violence), a member of the Committee of the 40th Anniversary of the Portuguese Community, Chair of the Luso-Canadian Cultural Council of Hamilton and Vice-President of the Portuguese Canadian National Congress of Ontario.

Alberto Di Giovanni

Mr. Di Giovanni was appointed to the Commission in September, 1994. He is Director of Programs for the Canadian Centre for Italian Culture and Education, a post he has

held since 1976. An expert in language education, he has written extensively on this subject, and from 1984 to 1988 was director of the Ontario Heritage Languages Association. He was a founding member of the Toronto Board of Education Race Relations Committee.

Aida F. Graff

Dr. Graff was appointed to the Commission in September, 1994. She is a research associate at the University of Toronto's Victoria College, where she served as Dean of Women from 1976 to 1990. She is currently President of the board of the Arab Community Centre of Toronto, a settlement and social service agency. She has served on the Ontario Anti-Racism Advisory Working Group, and has been a member of the Ontario Cabinet Roundtable on Anti-Racism.

Robert Milbourne

Mr. Milbourne was appointed to the Commission in July, 1992. A graduate of Metallurgical Engineering, Mr. Milbourne joined Stelco in 1963 and has worked in various positions leading up to his current position as President, Chief Operating Officer and member of the Board of Directors. He is a member of a number of associations including the Canadian Institute of Mining and Metallurgy and was heavily involved in the establishment of the Occupational Health Clinic for Ontario Workers.

Richard Miles

Before his appointment to the Commission in July, 1994, Mr. Miles held senior administrative positions with the Ministry of Community and Social Services, the Federal Secretariat of Disabled Persons Office, and most recently, Handicapped Action Group Incorporated in Thunder Bay. Mr. Miles was appointed by the Minister of Citizenship to the recently concluded Task Force conducting a procedural review of the Ontario Human Rights Commission.

Baljinder Singh Sidhu

Mr. Sidhu was appointed to the Commission in October, 1994. A senior engineer with Xerox of Canada Ltd., Mr. Sidhu is President of the National Alliance of Canadian Sikhs, an umbrella organization of social, educational, sports and religious Sikh groups and individuals from across Canada. He is also a member of the South Asian Steering Committee, which communicates concerns of the Sikh community to the Ontario government.

Elizabeth Hung Sorfleet

Elizabeth Hung Sorfleet was appointed to the Commission in October, 1994. She is Director of the Cross-Cultural and Race Relations Institute, a consulting firm offering services on cross-cultural, race relations and disability issues, conflict resolution and mediation. In 1992, Ms. Sorfleet organized Canada's first race relations conference for police, aboriginal and racial minority communities and the media. She is currently on the Ottawa-Carleton Visible Minority Advisory Committee on Health and Social Services.

Tom Warner

Mr. Warner was appointed to the Commission in February, 1993. He is a senior executive at the Institute of Chartered Accountants of Ontario where his responsibilities include policy development and government relations on behalf of the profession. Mr. Warner has been a founder and member of such groups as the Coalition for Lesbian and Gay Rights in Ontario, the Right to Privacy Committee and the City of Toronto's Lesbian and Gay Issues Committee.

St. Clair Wharton

Mr. Wharton was appointed to the Commission in June, 1991. Before that, he was the President of Local 2858, United Steelworkers of America from 1985 to 1991, and served as vice-president from 1983–1985. He has a wide range of experiences on human rights issues, having served on a number of human rights committees within the Union, including the OFL Human Rights Committee and as a member of the Parkdale Action Committee Against Racism. Mr. Wharton teaches human rights courses and conducts workshops for the union.

COMMISSION STRUCTURE

The Ontario Human Rights Commission (the “Commission”) is a Schedule I agency of the Ontario Government. The Commission administers the Ontario *Human Rights Code* and is accountable to the Legislature through the Minister of Citizenship.

Office of the Chief Commissioner

The *Office of the Chief Commissioner* ensures that the functions of the Commission are carried out in accordance with the provisions of the Ontario *Human Rights Code*. The Chief Commissioner provides strategic leadership to the Commission and ensures, through the Executive Director, the effective and efficient management of its operations, including case management and policy development.

Office of the Executive Director

The *Office of the Executive Director* has administrative responsibility for the agency and directs all aspects of the operations of the agency. Operations are carried out by four branches:

Regional Services and Systemic Investigation Branch

The *Regional Services and Systemic Investigation Branch* is the largest operation of the Commission. All the enforcement functions are incorporated into this Branch, including Regional Services, Case Management and Systemic Investigation. Regional Services include staff working at headquarters and 15 district offices in seven regions of Ontario.

The staff of the Branch’s district offices are, for the most part, the public’s first contact with the Commission. The primary activities of the staff are to handle intake, undertake investigations and facilitate conciliations in the large number of complaints filed each year.

The Branch also targets and investigates systemic practices which operate to unfairly disadvantage one or more groups protected under the *Code*. It develops precedent-setting cases and comprehensive model settlements through strategic enforcement designed to eliminate systemic barriers and put into place broad-based remedies.

The Branch is also responsible for developing strategies to address the Commission’s caseload, as well as maintaining accurate and up to date statistical information. This data is used to monitor the Commission’s caseload, and forms the basis of the Branch’s planning and strategy development. The Branch is responsible for ensuring Regional Managers are apprised of Case Management strategies.

Legal Services Branch

The *Legal Services Branch* assists the Commission in fulfilling all legal aspects of its mandate, including compliance, public education and litigation. Its activities include providing legal advice to officers and regional managers concerning investigation and conciliation of cases, providing legal opinions requested by the Commission, and serving as legal counsel to the Commission before boards of inquiry and the courts on matters of judicial review and appeals. The Commission staff responsible for Reconsideration, reports to the Director of Legal Services.

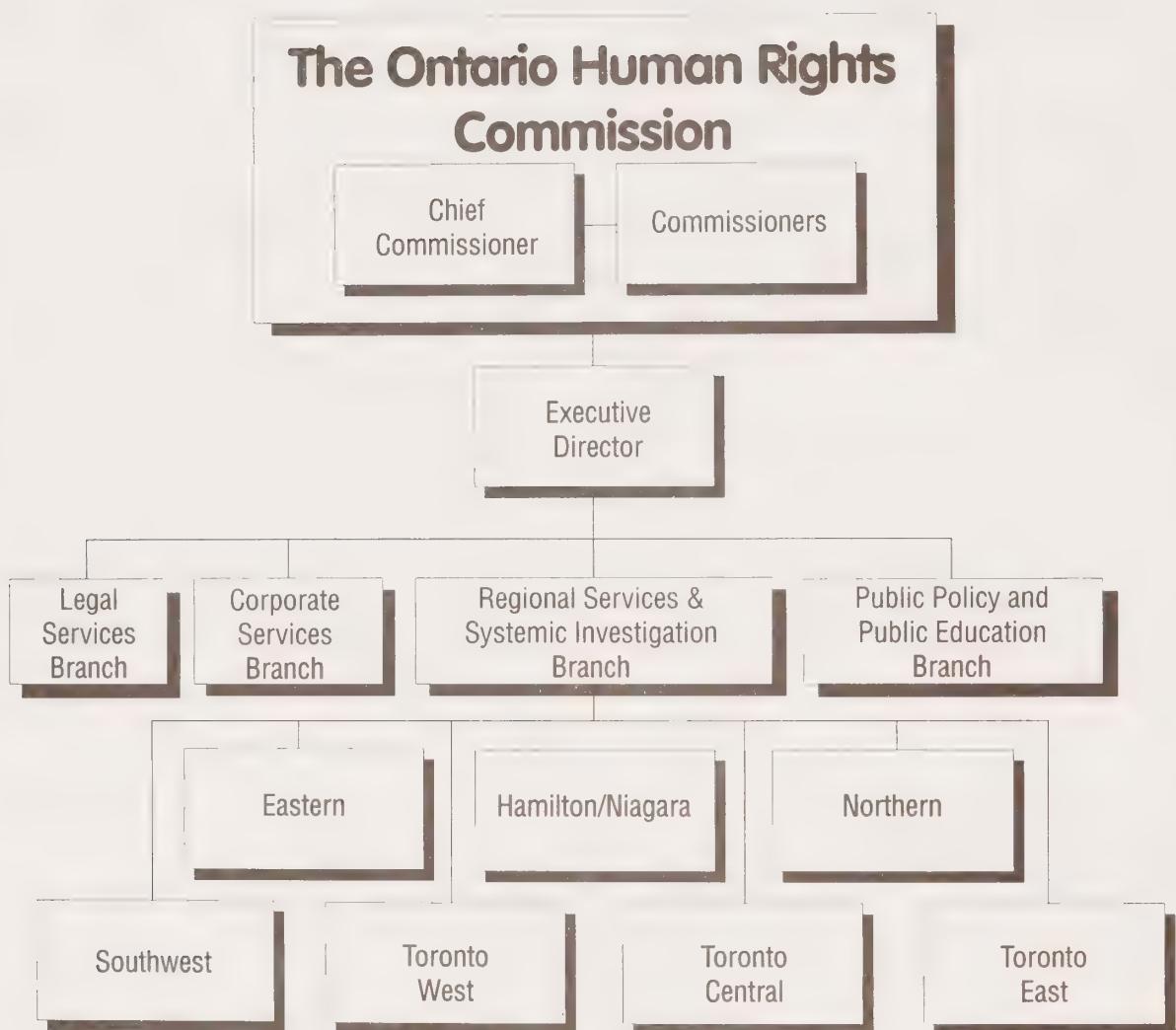
Public Policy and Public Education Branch

The *Public Policy and Public Education Branch* provides leadership and direction for the planning, development and evaluation of the Commission's public policy and related public education functions. The Branch is also responsible for external communications, community consultations and media relations. The Branch prepares guidelines and written policies on the interpretation and application of provisions of the *Code*, researches a broad range of human rights, legal and social equity issues, advises individuals and organizations on human rights issues, provides support to the offices of the Chief Commissioner and Executive Director, and represents the Commission on intergovernmental committees, task forces and delegations. The Branch fosters understanding of and voluntary compliance with, the principles of the *Code* through a range of public education and communications initiatives.

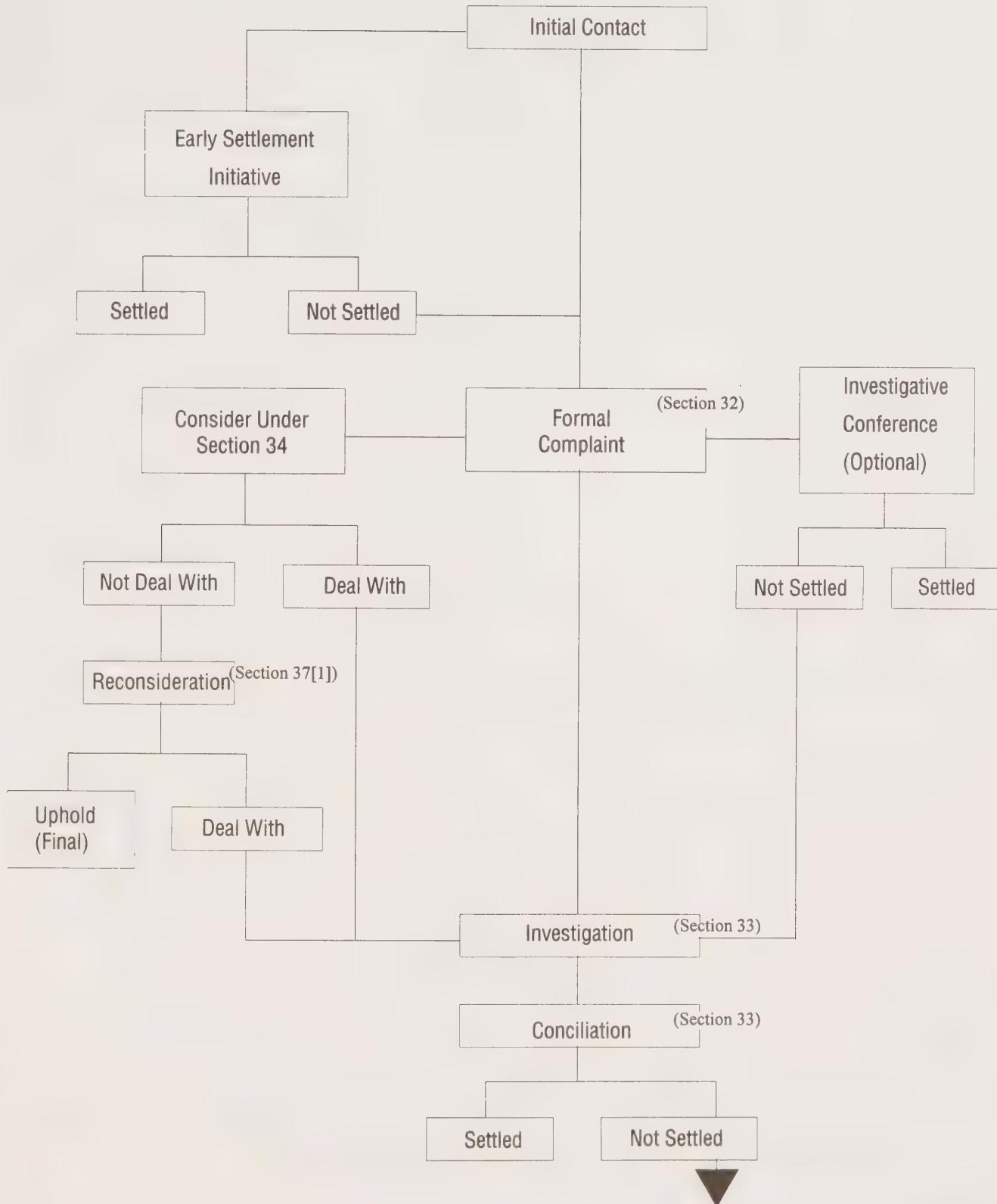
Corporate Services Branch

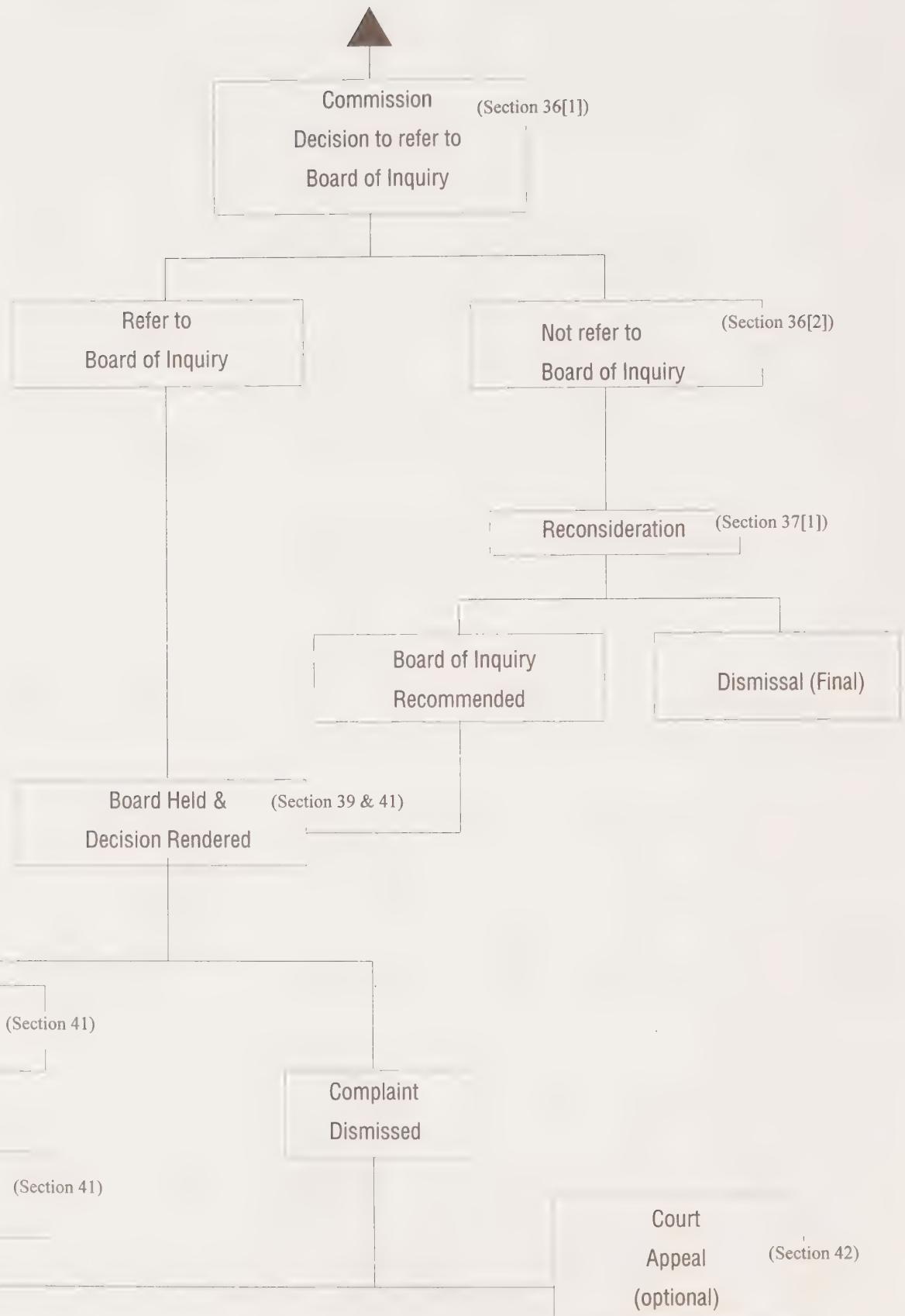
The *Corporate Services Branch* provides service to the Commission in the areas of human resources, operational planning, and finance and administration through the development and implementation of sound management policies and practices. Branch systems development and maintenance activities support the use of information technology within the Commission. The Learning Unit provides staff with training opportunities through the development and design of effective learning programs. The co-ordination of internal communications and the distribution of publications to the public are branch responsibilities. The Branch also ensures Commission compliance with the requirements of the *Freedom of Information and Protection of Privacy Act* and co-ordinates responses to Ombudsman enquiries. In partnership with other Branches, the Corporate Services Branch co-ordinates the implementation of the Commission's Organizational Improvement Initiatives.

ORGANIZATIONAL CHART



COMPLAINT PROCESSING FLOW CHART





OFFICE LOCATIONS

Hamilton

110 King Street West
Suite 310
L8P 4S6
Tel: (905) 521-7870
1-800-263-9344
TDD: (905) 546-8278

Kenora

227 2nd Street South
3rd Floor
P9N 1G1
Tel: (807) 468-2866

Kingston

80 Queen Street
Suite 202
K7K 6W7
Tel: (613) 548-6750
1-800-461-2958
TDD: (800) 267-5755

Kitchener

824 King Street West
Suite 101
N2G 1G1
Tel: (519) 571-6078
1-800-263-9525

London

231 Dundas Street
Suite 303
N6A 1H1
Tel: (519) 661-6600
1-800-268-8333
TDD: (519) 661-0544

Mississauga

1290 Central Parkway West
Suite 304
L5C 4R3
Tel: (905) 273-7811
1-800-268-2808
TDD: (905) 273-6648

Ottawa

255 Albert Street
Suite 401
K1P 6A9
Tel: (613) 232-0489
1-800-661-0228
TDD: (613) 232-3909

Sault Ste. Marie

390 Bay Street
3rd Floor
P6A 1X2
Tel: (705) 942-8417
1-800-461-0051

Scarborough

10 Milner Business Court
Suite 404
M1B 3C6
Tel: (416) 314-3555
1-800-268-6585
TDD: (416) 314-3572

St. Catharines

1 St. Paul Street
Suite 603
L2R 7L4
Tel: (905) 684-7406
1-800-263-4916
TDD (905) 684-1103

Sudbury

159 Cedar Street
2nd Floor
P3E 6A5
Tel: (705) 670-7222
1-800-461-6259
TDD: (705) 675-6392

Thunder Bay

28 North Cumberland St.
Suite 403
P7A 4K9
Tel: (807) 343-6003
1-800-465-8996

Timmins

210 Spruce St. South
Suite 103
P4N 2M5
Tel: (705) 268-2838
1-800-461-7863

Toronto Central

595 Bay Street
4th Floor
M5G 2C2
Tel: (416) 326-9511
TDD: (416) 326-9669

Windsor

215 Eugenie Street West
Suite 100
N8X 2X7
Tel: (519) 973-1370
1-800-263-1604
TDD: (519) 966-8237

Headquarters

180 Dundas Street West
Toronto, Ontario
M7A 2R9
Tel: (416) 314-4500
1-800-387-9080
TDD: (416) 314-4535

Toll-Free Long Distance:

If you are outside the local area and within the area code, call the number listed under 1-800.

PUBLICATIONS OF THE COMMISSION

Human Rights Code, 1981 [updated 1995] (available through the Government of Ontario Bookstore)

Employment Application Forms & Interviews

Guidelines for Assessing Accommodation Requirements for Persons with Disabilities

Human Rights: Accommodation of Persons with Disabilities

Human Rights and Sexual Harassment

Policy on Sexual Harassment & Inappropriate Gender-related Comment and Conduct (as of November 1993)

Sexual Harassment and Other Comments or Actions about a Person's Sex (as of November 1993)

OHRC Policy Statement on HIV/AIDS-related discrimination

Exceptions to the Equality Rights Provision of the Human Rights Code in the Workplace

Policy on Racial Slurs & Harassment & Racial Jokes

Racial Slurs & Harassment & Racial Jokes (pamphlet)

OHRC Policy Statement on Height and Weight Requirements

Annual Report

Policy on Drug & Alcohol Testing

Policy on Driver's Licence as a Condition of Employment

Policy on Employment-related Medical Information

Declaration of Management Policy

Guidelines on Special Programs

If You Have a Human Rights Complaint

Know Your Rights Series:

- Sexual Orientation and the Human Rights Code
- AIDS & AIDS-related Illness and the Human Rights Code

Human Rights in Ontario

Discrimination Because of Handicap

Guidelines for Internal Human Rights Complaint Resolution Procedures

Policy Statement with Respect to Exclusionary Scholarships

Policy on Female Genital Mutilation

LIBRARIES WHERE BOARD DECISIONS CAN BE FOUND

University of Toronto
Bora Laskin Library
78 Queen's Park
Toronto, Ontario
M5S 2C5

York University
Law Library
4700 Keele Street
Downsview, Ontario
M3J 2R5

Legislative Library
Legislative Building
3rd Floor, North Wing
Queen's Park
Toronto, Ontario
M7A 1A9

The Great Library
Osgoode Hall
The Law Society of Upper Canada
130 Queen Street West
Toronto, Ontario
M5H 2N6

Ministry of Labour Library
400 University Avenue
10th Floor
Toronto, Ontario
M7A 2R9

Metropolitan Toronto Reference Library
789 Yonge Street
Toronto, Ontario
M4W 2G8

University of Ottawa Library
550 Cumberland Street
Ottawa, Ontario
K1N 6N5

Carleton University Library
Ottawa, Ontario
K1S 5B6

Brock University Library
500 Glenridge Avenue
St. Catharines, Ontario
L2S 3A1

University of Waterloo Library
200 University Avenue West
Waterloo, Ontario
N2L 3G1

University of Western Ontario Library
London, Ontario
N6A 3K7

Queens University Library
Kingston, Ontario
K7L 3N6

McMaster University Library
Hamilton, Ontario
L8S 4L8

University of Windsor Library
401 Sunset Avenue
Windsor, Ontario
N9B 3P4

Lakehead University Library
Oliver Road
Thunder Bay, Ontario
P7B 5E1

Laurentian University Library
Sudbury, Ontario
P3E 2C6

Library of Parliament
Wellington Street
Parliament Hill, Central Block
Ottawa, Ontario
K1A 0A9

University of Ottawa
Human Rights Research
and Education Centre
57 Louis Pasteur
Ottawa, Ontario
K1N 6N5

Hamilton Public Library
55 York Blvd.
Hamilton, Ontario
L8N 4E4

Kingston Public Library
130 Johnson Street
Kingston, Ontario
K7L 1X8

Kitchener Public Library
85 Queen Street North
Kitchener, Ontario
N2H 2H1

London Public Library
305 Queens Avenue
London, Ontario
N6B 3L7

Ottawa Public Library
120 Metcalfe Street
Ottawa, Ontario
K1P 5M2

St. Catharines Public Library
54 Church Street
St. Catharines, Ontario
L2R 7K2

Thunder Bay Public Library
285 Red River Road
Thunder Bay, Ontario
P7B 1A9

Waterloo Public Library
35 Albert Street
Waterloo, Ontario
N2L 5E2

Windsor Public Library
850 Ouellette Avenue
Windsor, Ontario
N9A 4M9

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Table 1:
Complaints by Region of Registration & Ground

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE(%)
EASTERN	34	11	2	61	28	10	17	7	9	69	2	1	1	5	–	257	10
HAMILTON/NIAGARA	21	4	9	31	22	8	21	11	6	83	5	–	2	3	–	226	9
NORTHERN	27	5	–	23	27	5	11	9	5	55	5	–	–	–	–	172	7
SOUTHWESTERN	54	7	6	49	70	8	24	9	10	97	13	2	1	3	1	354	14
TORONTO CENTRAL	202	28	15	70	89	22	52	6	22	172	7	–	11	11	–	707	28
TORONTO EAST	55	20	8	96	20	6	48	6	29	74	8	–	7	25	–	402	16
TORONTO WEST	123	4	10	51	49	4	34	7	22	124	8	–	3	2	1	442	17
TOTAL	516	79	50	381	305	63	207	55	103	674	48	3	25	49	2	2,560	100
PERCENTAGE(%)	20	3	2	15	12	2	8	2	4	26	2	0	1	2	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

Table 2:
Complaints Received by Provision & Ground

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	Reprisal	No Grounds	Breach of Settlement	TOTAL	PERCENTAGE(%)
SERVICES	84	14	3	33	3	21	21	4	5	112	-	-	-	41	-	341	13
HOUSING	35	7	-	12	8	4	31	9	64	28	48	-	-	1	-	247	10
CONTRACTS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	0
EMPLOYMENT	394	58	46	307	294	38	155	42	33	530	-	3	-	7	-	1,907	74
VOCATIONAL ASSOCIATION	3	-	1	29	-	-	-	-	1	4	-	-	-	-	-	38	1
REPRISAL	-	-	-	-	-	-	-	-	-	-	-	25	-	-	-	25	1
BREACH OF SETTLEMENT	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	2	0
TOTAL	516	79	50	381	305	63	207	55	103	674	48	3	25	49	2	2,560	100
PERCENTAGE(%)	20	3	2	15	12	2	8	2	4	26	2	0	1	2	0	100	

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

Table 3:
Settlements Effected by Ground

	\$ Specific & General Damages	Complainants Receiving Damages	Offer of Job or Facility	Offer of, or Consideration for, Next Job or Facility	Affirmative Action Implemented	Seminars with Respondent Staff	Review of Policies or Documents	Issuance of Documents	Correction of Complainants Records	Letter of Apology to Complainant	Written Declaration of Management Policies
RACE/COLOUR	\$591,685	43	18	5	1	10	26	16	3	26	64
ETHNIC ORIGIN ¹	\$45,918	8	1	1	—	4	4	2	6	8	15
CREED	\$19,893	5	5	—	—	2	1	1	—	3	7
SEX & PREGNANCY	\$236,962	55	15	5	—	2	25	17	3	13	50
SEXUAL HARASSMENT	\$405,758	81	3	1	1	11	51	15	5	32	85
SEXUAL ORIENTATION	\$55,930	6	2	1	—	—	1	—	—	2	7
AGE	\$238,767	18	6	4	—	3	18	3	2	16	24
MARITAL STATUS	\$10,192	5	4	3	—	—	14	2	1	3	6
FAMILY STATUS	\$16,091	7	6	4	—	2	9	3	1	1	18
HANDICAP	\$506,335	80	44	10	1	6	70	17	6	24	76
RECEIPT OF PUBLIC ASSISTANCE ²	\$3,465	5	5	—	—	—	4	1	—	4	7
OTHER	\$3,000	1	1	1	—	—	—	3	2	—	4
TOTAL	\$2,133,996	314	110	35	3	40	223	80	29	132	363

1. Citizenship, ancestry, place of origin

2. Only in accommodation

Table 4:
Complaints Closed by Provision, Disposition & Ground

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	RBOSNG ⁴	TOTAL	PERCENTAGE(%)
EMPLOYMENT															
Board Appointed	2	-	-	6	7	1	2	-	-	10	-	-	-	28	2
Settled	90	23	13	99	124	9	42	19	8	127	-	1	-	555	37
Dismissed or not pursued	88	9	5	58	25	4	73	7	3	111	-	2	3	388	26
Withdrawn	119	16	8	93	88	13	42	8	5	150	-	1	2	545	36
TOTAL	299	48	26	256	244	27	159	34	16	398	-	4	5	1,516	100
ACCOMMODATION															
Board Appointed	-	-	-	2	1	-	1	-	1	-	-	-	-	5	3
Settled	8	1	-	7	-	-	5	5	17	22	18	-	-	83	45
Dismissed or not pursued	4	1	-	-	1	-	4	-	3	4	3	-	1	21	11
Withdrawn	15	2	-	1	2	-	8	3	14	9	21	-	-	75	41
TOTAL	27	4	-	10	4	-	18	8	35	35	42	-	1	184	100
SERVICES															
Board Appointed	-	-	-	-	-	-	-	-	-	2	-	-	-	2	1
Settled	22	2	-	4	1	2	4	5	2	73	-	-	-	115	36
Dismissed or not pursued	33	7	4	28	1	6	4	-	1	27	-	-	15	126	39
Withdrawn	19	2	2	9	1	6	4	1	1	29	-	-	3	77	24
TOTAL	74	11	6	41	3	14	12	6	4	131	-	-	18	320	100
CONTRACTS, VOCATIONAL ASSOCIATIONS, REPRISALS, BREACH OF SETTLEMENTS															
Board Appointed	-	-	-	1	-	-	-	-	-	1	-	-	-	2	3
Settled	-	-	-	3	-	1	-	-	1	-	-	-	6	11	16
Dismissed or not pursued	2	-	-	22	-	-	-	-	-	2	-	-	18	44	64
Withdrawn	1	-	-	1	-	-	-	-	-	1	-	-	9	12	17
TOTAL	3	-	-	27	-	1	-	-	1	4	-	-	33	69	100

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in employment

4. RBOSNG—Reprisal, Breach of Settlement, No Grounds

Table 5:
Employment Complaints Closed by Disposition & Ground

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences ²	RBOSNG ³	TOTAL	PERCENTAGE(%)
RECRUITMENT & HIRING													
Board Appointed	—	—	—	1	—	—	—	—	2	—	—	3	2
Settled	5	2	2	17	1	15	8	2	19	1	—	72	45
Dismissed or not pursued	5	1	—	5	—	8	2	—	6	1	1	29	18
Withdrawn	11	—	—	17	2	11	—	2	12	—	—	55	35
TOTAL	21	3	2	40	3	34	10	4	39	2	1	159	100
PERCENTAGE(%)	13	2	1	25	2	21	6	3	25	1	1	100	
TERMINATION													
Board Appointed	1	—	—	4	—	2	—	—	3	—	—	10	1
Settled	49	12	5	55	2	18	4	5	80	—	—	230	34
Dismissed or not pursued	53	7	1	19	3	15	3	2	59	—	2	164	24
Withdrawn	68	9	3	49	5	27	4	3	105	1	—	274	40
TOTAL	171	28	9	127	10	62	11	10	247	1	2	678	100
PERCENTAGE(%)	25	4	1	19	1	9	2	1	36	0	0	100	
DURING EMPLOYMENT													
Board Appointed	1	—	—	1	1	—	—	—	5	—	—	8	2
Settled	36	9	6	27	6	9	7	1	28	—	—	129	30
Dismissed or not pursued	30	1	4	34	1	50	2	1	46	1	—	170	39
Withdrawn	40	7	5	27	6	4	4	—	33	—	2	128	29
TOTAL	107	17	15	89	14	63	13	2	112	1	2	435	100
PERCENTAGE(%)	25	4	3	20	3	14	3	0	26	0	0	100	
TOTAL⁴	299	48	26	256	27	159	34	16	398	4	5	1,272	

1. Citizenship, ancestry, place of origin

2. Only in employment

3. RBOSNG—Reprisal, Breach of Settlement, No Grounds

4. Total does not include 244 sexual harassment complaints

Table 6:
Employment Complaints Closed by Type of Work

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Record of Offences ²	RBOSNG ³	TOTAL	PERCENTAGE(%)
Professional, Managerial, Technical	112	15	7	75	55	11	34	16	3	105	2	3	438	29
Sales	13	1	6	23	28	—	18	6	3	30	—	—	128	8
Clerical	39	5	4	68	64	3	24	3	3	45	—	—	258	17
Craft & Forepersons	24	2	2	9	6	—	4	1	1	31	—	—	80	5
Operatives	17	3	—	12	8	—	5	—	1	35	—	1	82	5
Services	35	12	2	36	50	6	14	4	1	31	1	1	193	13
Labour, General	55	9	5	31	27	4	18	4	3	117	1	—	274	18
Unspecified	4	1	—	2	6	3	42	—	1	4	—	—	63	4
TOTAL	299	48	26	256	244	27	159	34	16	398	4	5	1,516	100

1. Citizenship, ancestry, place of origin

2. Only in employment

3. RBOSNG—Reprisal, Breach of Settlement, No Grounds

Table 7:
Complaints Closed by Type of Industry

	Race or Colour	Ethnic Origin ¹	Creed	Sex & Pregnancy	Sexual Harassment	Sexual Orientation	Age	Marital Status	Family Status	Handicap	Public Assistance ²	Record of Offences ³	RBOSNG ⁴	TOTAL	PERCENTAGE(%)
NATURAL RESOURCES	-	-	-	6	1	-	-	1	-	8	-	-	-	16	1
MANUFACTURING															
Metals, Parts, Machinery	15	2	-	5	6	-	1	2	2	30	-	-	-	63	
Food, Tobacco	5	-	-	5	2	-	3	-	-	9	-	-	-	2	26
Wood, Furniture, Paper	2	1	-	3	1	-	-	2	-	11	-	-	-	-	20
Automotive, Aircraft	6	-	-	2	4	2	8	1	-	19	-	-	-	1	43
Electrical	10	1	-	3	5	-	2	-	2	8	-	-	-	2	33
Others	26	5	4	19	29	3	43	5	-	57	-	-	-	2	193
Subtotal	64	9	4	37	47	5	57	10	4	134	0	0	7	378	18
CONSTRUCTION	3	1	-	2	3	-	1	-	1	7	-	-	-	18	1
TRANSPORTATION, UTILITIES & COMMUNICATION	14	-	1	6	4	2	6	1	1	15	-	-	3	53	3
TRADE & RETAIL	39	7	4	43	32	1	25	5	3	48	-	1	3	211	10
FINANCE, INSURANCE & REAL ESTATE	49	5	2	21	14	4	23	9	31	68	39	-	1	266	13
COMMUNITY, BUSINESS & PERSONAL SERVICES															
Schools, Colleges, Universities	25	6	2	37	7	2	8	2	1	54	-	-	8	152	
Hospitals, Physicians	37	6	2	16	13	4	8	3	-	56	-	-	4	149	
Employment agencies	-	-	-	6	2	-	3	1	-	1	-	-	-	-	13
Hotels, Restaurants	25	6	3	29	52	7	10	6	2	30	-	1	2	173	
Others	69	15	7	78	48	10	18	6	6	77	1	1	6	342	
Subtotal	156	33	14	166	122	23	47	18	9	218	1	2	20	829	40
PUBLIC ADMINISTRATION	44	8	6	44	20	7	17	2	4	53	1	1	21	228	11
UNSPECIFIED/NOT APPLICABLE	34	-	1	9	8	-	13	2	3	17	1	-	2	90	4
TOTAL	403	63	32	334	251	42	189	48	56	568	42	4	57	2,089	100

1. Citizenship, ancestry, place of origin

2. Only in accommodation

3. Only in Employment

4. RBOSNG—Reprisal, Breach of Settlement, No Grounds

